

Planning Commission Date: May 10, 2006

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report Prepared by: Dennis Carrington

Public Hearing: Yes: X No:

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TITLE: **D.R. HORTON "CENTRIA" SITE AND ARCHITECTURE
REVIEW (SZ2006-4) AND USE PERMIT NO. UP2006-5**

Proposal: A request to construct two buildings containing a total of 464 multi-family residential units, and a request for an exception to the R4-TOD development standards for number of floors of the west building parking garage.

Location: Corner of Great Mall Parkway, Main, and Abel Streets

APN: 086-12-015, 016, 020

RECOMMENDATION: **Approve with Conditions**

Applicant: Mr. Dean Mills of D.R. Horton/Western Pacific Homes, 6658 Owens Drive, Pleasanton, CA 94588

Property Owner: D.R. Horton/Western Pacific Homes, 6658 Owens Drive, Pleasanton, CA 94588

Previous Action(s): Major Tentative Tract Map, Site and Architectural Review, Use Permit, General Plan Amendment and Rezoning

Environmental Info: Midtown EIR

General Plan Designation: Multi-Family Very High Density Residential

Present Zoning: Multi-Family Very High Density (R4-TOD-S), with a Transit Oriented Development and S-Zone overlay

Existing Land Use: Vacant land

Agenda Sent To: Applicant and owner as noted above

Attachments: -March 15, 2006 letter describing the project
-Project plans dated March 13, 2006

PJ#3178

BACKGROUND

The subject property is located on the south side of Great Mall Parkway between South Abel and South Main Streets. The parcel is approximately 8.2 acres in size and is undeveloped.

Surrounding uses include the Montevista Apartments, Great Mall Shopping Center, Elmwood Correctional Facility, VTA park and ride facility and light rail station. Other uses include industrial uses to the east, commercial and residential uses to the south, and residential uses to the north and west. In addition, Penitencia Creek borders the site on the southern edge.

In 2002, as part of the Midtown Specific Plan, the General Plan designation for this property was changed from General Commercial to Multi-Family Very High Density and the zoning was changed from Agriculture and General Commercial to Multi-Family Very High Density with a Transit Oriented Development Overlay (R4-TOD-S).

On May 11, 2005, the Planning Commission approved Site and Architectural Review SZ2004-9 for a Fairfield Residential LLC 481 unit, two building project and approved Use Permit UP2005-3 to allow exceptions to the R4-TOD development standards for setbacks, open space and number of floors. On that date the Planning Commission recommended approval of Major Tentative Map MA2005-4 to subdivide the project into two parcels to the City Council. The City Council approved MA2005-4 on August 16, 2005.

D.R. Horton purchased the project from Fairfield Residential LLC in November of 2005 and proposed major revisions to the project. Fairfield Residential typically develops for-rent developments that emphasize one-bedroom units. D.R. Horton typically builds for-sale developments that emphasize two and three bedroom units. D.R. Horton is proposing to change the unit distribution in this project as follows:

Unit Type	Fairfield	Centria
1 bedroom	334	150
2 bedrooms	136	255
3 bedrooms	11	59
Total Units	481	464

The reduction of the number of one-bedroom units resulted in changes to the floor plans of the two buildings but no revisions to their footprints, associated facilities or landscaping. The major changes are as follows:

- Decreasing the number of units from 481 to 464
- Changing the unit mix
- Increasing the number of floors of the “West” building from four to five
- Increasing the number of levels of the “West” garage from six levels to seven levels

APPLICATIONS SUBMITTED

The applicant is requesting approval of an S-Zone application, pursuant to Section 42 (Site and Architecture Review) for the construction of two new multi-family buildings and related site improvements. The applicant is also requesting approval of a Use Permit, pursuant to Section 8.11 (Exceptions to R-4 Standards) and Section 57 (Use Permits) of the Zoning Ordinance for an exception to the R-4 development standards for the maximum number of building (garage) levels.

PROJECT DESCRIPTION

The applicant is proposing to develop a 464-unit multi-family condominium complex in two separate buildings. The site has been subdivided into two separate stand-alone buildings, each on its own parcel. The west parcel will contain 327 units (101 one bedroom, 186 two bedroom units and 40 three bedroom units) in a five-story building and the east parcel will contain 137 units (49 one bedroom, 69 two bedroom, and 19 three bedroom units) in a four-story building. The site will appear as one project as the architecture and style of both buildings will be similar to each other.

Site Layout and Access

As stated above, the site has been subdivided into two parcels, with the new property line running generally north to south through the site. Each building will be generally centered on its parcel. The site will contain the project driveway, guest parking, and an improved public trail at the southern end of the site. Each parcel will have a recreational area, which includes a pool area, fitness room and business center, all to be located at the southern end of the buildings, closest to the driveway.

Both buildings will have similar layouts. The parking garage will be structured and located in the middle of the building. The building will surround the parking structure and include “corridors” that extend out from the center of the building. Direct pedestrian access from the garage will be at four (4) locations for the west building and two (2) locations for the eastern building. The western building will have three elevators and the eastern building will have two elevators; both with staircases for multi-level access. Other exterior pedestrian access (from neighboring streets) will be spaced throughout the building.

Landscaping is proposed throughout the site with plaza areas, barbecue facilities, benches, trellises and monuments. Between the two buildings is a proposed landscaped promenade that will serve two purposes, one to provide resident and visitor access to the buildings and the other to provide Fire Department access.

The proposed site layout will have two street entrances at either end of the closed Capitol Avenue. There will be three garage entrances, one off Abel Street near Great Mall Parkway and two off the closed Capitol Avenue.

Parking

There will be 865 on-site parking spaces, 620 spaces on the west side and 240 on the east side of the project. There will be a total of 130 guest parking spaces (102 are required). 45 guest parking spaces will be located along the main driveway, the balance of 85 guest parking spaces will be

located in the parking garages on every level. Parking is classified in the table below. Each building, as proposed will have adequate parking to park the required resident and guest parking on their respective parcel. The guest parking is not evenly distributed so that each parcel is self sufficient. Staff **Recommends** that a condition of approval be required that 72 guest parking spaces be provided on the west parcel and 30 spaces be provided on the east parcel.

Centria Parking Table						
West Building	Units	Spaces per unit	Required Parking	Parking Provided	Required Guest Parking	Guest Parking Provided
1 bedroom	101	1.5	151.5			
2 bedroom	186	2.0	372			
3 bedroom	40	2.0	80			
Total Parking			*603.5/482.8	620	*91/72	33
East Building	Units	Spaces per unit	Required Parking	Parking Provided	Required Guest Parking	Guest Parking Provided
1 bedroom	49	1.5	73.5			
2 bedroom	69	2.0	138			
3 bedroom	19	2.0	38			
Total Parking			*249.5/199.6	240	*37/30	52
Grand Total			853	865		
Street Guest Parking						45
Less 20% TOD parking reduction			682		102	130

* Number reflects Total Parking/Total Parking minus 20% TOD parking discount

Bicycle Parking

Bicycle parking is 5% of required auto parking (682 with TOD discount) or 34 spaces. Staff **Recommends** that a condition of approval require 24 bicycle parking spaces on the West parcel and 10 bicycle parking spaces on the East parcel.

Building Architecture, Colors, and Materials

The residences will be stacked-flat units with the units restricted to one story. The architecture of the project has been revised from the approved Fairfield project to add more articulation to the facades with the inclusion of full balconies on the two and three bedroom units and color variations on the building facades to further refine the building massing into smaller scale

elements. The west building is proposed to be five stories with a maximum height of 65 feet and the east building is proposed to be four stories, with a maximum height of 45 feet. The parking structure with the west building will be 70 feet tall with up to 7 levels and the parking structure in the east building will be 60 feet tall, with up to 6 levels.

The building architecture is contemporary with a mix of classical cornice-style and flat roofs. The buildings will have a stucco finish. Various colors are used throughout the building to add interest and variety. Colors proposed include shades white, tan and gray as primary colors. A rust red color will be used for trim and corner elements. The first level of the building uses the gray color to visually attach the structures to the ground. The Other architectural features include French balconies, stoops, canopies, and metal railings.

Because the buildings are located within a flood zone area, the applicant is proposing to add approximately four (4) feet of fill to bring the buildings out of the flood zone area and prevent the requirement of costly flood insurance. This will add approximately three to four feet to the overall height of the proposed structures on the site.

Landscaping

Because of the high-density urban character, landscaping of this Midtown project is not provided in the same way as provided in suburban developments where large swaths of green, open space are common. Landscaping is incorporated throughout the site and used within enclosed and partially enclosed plaza areas. The site includes a mix of softscape and hardscape. Hardscape elements throughout the site include open plazas with benches and monuments, and trellises, chairs and benches in the pool area.

As part of the project, the applicant is proposing to improve the streetscape along the project’s Main, Abel and Great Mall Parkway frontages. Landscaping will be installed between the buildings and the public sidewalks to provide a natural buffer between the streets and the buildings.

The applicant is proposing a large variety of trees at the site that are mainly broadleaf and deciduous. The applicant is proposing palm trees to accent pedestrian accessways.

ISSUES

Potential Phasing

Staff is concerned that the project could potentially be constructed separately, as two stand alone projects, since the site has been subdivided. This could lead to the possibility that only half of the project is constructed with the other half following months or possibly years later, if at all. To minimize the chance that the City ends up with a half developed site in such a prominent location, *staff recommends* the project be conditioned that prior to the first phase of the project being finalized (occupancy granted), building permits be procured and construction be completed for the building slab on the second phase.

Use Permit Exception

Pursuant to Section 8.11 (Exception to Standards) of the R4 zoning district, exceptions to certain development standards may be approved by the Planning Commission through the approval of a Use Permit in accordance with Section 57 (Use Permits) of the zoning ordinance.

The applicant is requesting one exception from the standards of the R4 zoning district to allow the exceedance of the number of floors (parking garage levels). The R4 zoning district with a TOD overlay allows residential building height to be five-stories and 75-feet. The Planning Commission approved a Conditional Use Permit on May 11, 2005, to allow an exception to the R4-TOD development standards for the number of floors to allow a six-level parking garage with a height of 60 feet even though a parking garage is technically not a “residential structure”. The applicant is requesting a Conditional Use Permit to allow an exception to the number of floors to allow a seven-level parking garage with a maximum height of 70 feet. The additional level of parking will free up more space at the ground level for open space and landscaping. Staff is in favor of such an exception because a seven level 70-foot tall parking garage will not be visible above the 65 foot height of the surrounding five-story residential because it is set back from the street within the residential structure and therefore will not be visible from the street level.

Use Permit Findings

Any approval of a Use Permit or Use Permit Amendment, requires that the Planning Commission make the following findings:

1. The proposed use is consistent with the Milpitas Zoning Ordinance.
2. The proposed use is consistent with the Milpitas General Plan.
3. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

In addition to the above findings, two additional findings are required to be made by the Planning Commission prior to approval of any exceptions to the development standards for an R-4 project in the Midtown Area:

1. The exceptions meet the design intent identified within the Specific Plan and do not detract from the overall architectural, landscaping, and site planning integrity of the proposed development.
2. The exceptions allow for a public benefit not otherwise obtainable through the strict application of the specified standard.

Consistency with the Milpitas Zoning Ordinance

The project, with exceptions granted by the Planning Commission on May 11, 2005 and proposed with this revision, is consistent with the density requirements and development standards of the R4-S TOD zoning district.

Consistency with the General Plan

The proposed S-Zone and Use Permit are consistent with the following sections of the General Plan.

Guiding Principles:

2.a-G-2 which encourages a relatively compact form, through the use of compact development and higher densities. The proposed density of the project, 57 DU/acre, is consistent with the General Plan designation.

2.a-G-3 which provides for a variety of housing types and densities to meet the demands of families. The project as revised will provide one, two and three bedroom units to provide for varying family sizes. In addition, the project is a rental property, recently most of the projects before the City have been ownership.

2.a-G-5, a park-like setting through parks, trails, and greenway system. The project includes a new trail along the southern border of the project adjacent to Penitencia Creek.

2.a-G-6 which implements the Midtown Specific plan goals, policies, and development standards and creates high-density housing. The project is proposing high-density housing (density of over 41 DU/acre) along a transit corridor and meets the intent of the Midtown Specific Plan.

And Implementing Policies:

2.a-I-1 which states that new developments should not exceed the building intensity limits established in the General Plan. The proposed project with a density of 57 dwelling units per gross acre does not exceed the 60 unit per gross acre density maximum of the Multi-Family, Very High Density Residential in the Transit Oriented Overlay land use designation.

2.a-I-2 which promotes in-fill development in the incorporated city limits. The project will be an in-fill project locating on vacant land in the middle of developed areas of the City.

2.a-I-22 and 2.a-I-23 which encourages developing the Midtown area as an attractive and economically vital district that accommodates a mixture of housing within a system of landscaped boulevards, streets and pedestrian/bicycle linkages, all in conformance with the adopted design guidelines/requirements. The proposed project meets the intent of the Midtown Specific Plan and will bring a mixture of housing types to the Midtown area. In addition, the project incorporates a new linear park/greenway.

2.b-I-3 which encourages providing housing opportunities in Milpitas, the project is proposing to add 481 residential units within the City.

Conformance with the Zoning Ordinance

Pursuant to Section XI-10-8.05 of the Zoning Ordinance, the proposed project will create legal lots that conform with the development standards, parking, and affordable housing requirements of the Multi-Family Very High Density with a Transit Oriented Overlay "R4-S TOD" District in the following ways:

Standards	Proposed	Complies
Height - 5 stories and 75 feet	West building - five stories with a maximum height of 65 feet and the east building - four stories, with a maximum height of 45 feet. The west parking structure - 70 feet with 7 levels and the east parking structure - 60 feet tall, with 6 levels.	No, see exception, use permit requested
Density – 41 to 60 DU/Acre	57 DU/Acre	Yes
Affordable Housing – 20% minimum goal	20% affordable	Yes
Front and street side setback – Min. 8 ft., Max 15 ft. from back of sidewalk	Varies between 3 feet and 70 feet	Yes with exception granted on May 11, 2005 with CUP
Rear setbacks – 10 feet minimum	Over 10 feet	Yes
Parking – 1.5 spaces for each 1-bedroom unit and 2 spaces for each 2-3 bedroom unit. Plus 15% for guest parking. 20% percent reduction allowed in TOD overlay district.	Minimum of 1.5 covered spaces for each 1-bedroom unit and 2 covered spaces for each 2-bedroom unit and greater, and 15 percent for guest parking, all located on-site. 20% reduction off the gross parking number.	Yes
Bicycle Parking – 5% of auto parking	Bicycle parking area proposed for each building in the garage.	Yes (34 spaces will be provided)
Open Space – 25% of total site	Over 25%	Yes
200 square feet of usable open space per unit (on-site private park, recreation area)	Less than 200 square feet	Yes with exception granted on May 11, 2005 with CUP
Utilities – screened from views	Location of utilities not determined.	No, see issues section

Not detrimental or injurious to property or improvements in the vicinity or to the public health, safety and general welfare

The project as proposed to be revised is designed with an attractive contemporary architecture, will be built to the requirements of all applicable codes, is consistent with the General Plan, the

Zoning Ordinance and the Midtown Specific Plan. The project street landscaping is consistent with the Main Street and Abel Street Streetscape Plans and with the City’s Streetscape Master Plan. As such the project will not be detrimental or injurious to property or improvements in the vicinity or to the public health, safety and general welfare.

Conformance with the Midtown Specific Plan

All projects proposed within the Midtown area are subject to a Site and Architectural Review (S-Zone Review), in accordance with Chapter 42 of the City’s Zoning Ordinance. In addition to the usual S-Zone process of reviewing projects for conformance with the City’s General Plan and Zoning Ordinance, no S-Zone approval shall be granted by the City without the decision-making body making the following finding:

“The proposed project conforms to the intent and the specific requirements of the Midtown Specific Plan, including the Development Standards and Design Guidelines.” (Midtown Specific Plan)

The project conforms with the following Goals and Policies as further described below.

Land Use

The project conforms with the Midtown Specific Plan’s Land Use Goals 2, 3, and 4, and Residential Policies 3.2 and 3.4 through 3.7 in that it provides a higher density in the TOD overlay zone (57 DU/Acre) and a revised mix of new high density housing that addresses the small, medium and larger size families and their different affordability needs. The project is also convenient to transit facilities in its design and location. The revised plan will provide a larger proportion of 3-bedroom units (59 units or 12.7% compared to 11 units or 2.28%) than the previously approved Fairfield project, thus providing housing for Milpitas’ typically larger family sizes.

Parks and Open Space

The proposed project is consistent with Park and Open Space Policies 3.23 through 3.25 as the project will provide parks at the 3.5-acre ratio and will pay in-lieu fees for any park land that it does not physically provide. In addition, the project is proposing the creation of trail area along Penitencia Creek in the area as noted in the Midtown Specific Plan adjacent to their project site.

Circulation

The proposed project is consistent with Circulation Goals 1 and 2 because it provides pedestrian and bicycle access throughout the project and also provides bicycle parking within the development. In addition, the project is located adjacent to light rail and is providing pedestrian access through the project to light rail.

The project itself is within a quarter of a mile of the existing light rail line. It is consistent with Circulation Policies 4.2, and 4.9 in that the project is providing convenient access to light rail. Also, a traffic report was completed for the project that analyzed the capacity of the existing network and the circulation of the site within the existing street network. It is also consistent with Policy 4.13 - a connected system of sidewalks and pedestrian paths that provides safe and convenient access, and policy 4.15 - public access for purposes of a trail network. Lastly, it is consistent with Policy 4.19 in that it proposes adequate off-street parking for the various uses.

Community Design

The proposed project is consistent with Community Design Goal 1, 3 and 4 in that the project proposal is of a high quality, is creating a high-density project compatible with nearby transit and is physically improving both Main and Abel Streets. As part of the project, **staff recommends** the project improve Main, Abel and Great Mall Parkway to be consistent with the Abel and Main streetscape improvements occurring just north of the site.

In addition, the project proposal includes open urban spaces (plazas). It is consistent with Community Design Policies 5.1 through 5.5 in that the project promotes walkability, improves pedestrian access throughout the project, and is a high quality project that meets Midtown design standards.

Utilities

The proposed project is consistent with Utility and Service Policy 6.1 – 6.6 in that the project is incorporating recycled water, is upgrading water and sewer facilities to serve the project, and there is adequate water and sewer capacity to serve the project. The project is consistent with Policy 6.7 – 6.9 as the project is incorporating storm water management design and equipment, as well as making necessary storm water drainage infrastructure to accommodate the project. The project is also consistent with Policies 6.10, 6.12, 6.13, 6.17, and 6.18 which relate to other utilities such as gas, electric and solid waste.

Public Services and Schools

Lastly, the project is consistent with Policy 6.19 and 6.20 which relate to fire, police and emergency services and planning for school facilities. As the project conforms to the Midtown Plan, safety services have been accommodated as identified. In addition, the project will be paying school impact fees as part of the building permit process to ensure that future demand will be satisfied.

Staff has also reviewed the project against the design guidelines of the Plan and has determined that, as conditioned, the project is in conformance with all applicable design guidelines. Thus, staff concludes the project is consistent with the intent and specific requirements of the Midtown Specific Plan.

Site Layout

The proposed layout maximizes density, provides for adequate access for emergency and service vehicles, provides pedestrian access and walkability throughout the site, and provides for building variety and interest along Great Mall Parkway, Abel and Main Streets.

The proposed site plan shows the incorporation of a trail along the southern boundary of the site, adjacent to Penitencia Creek. However, the project does not provide marked, direct pedestrian access to the new trail area. To promote pedestrian usage and safety, **staff recommends** the applicant provide a crossing of the access driveway at the southern end of the site for each building to reach the trail adjacent to Penitencia Creek.

The applicant is proposing to use the County corner parcel to provide Fire Department access for their site. While this parcel is proposed to be incorporated into the project, until it is, the applicant will have to provide an alternative fire access until the corner parcel is procured.

Building Architecture

The applicant is proposing four story buildings that incorporate various architectural treatments including trellises, balconies, and different window styles. Staff is concerned with the overall appearance of the building. While there are many positives associated with the proposal some modifications to the architecture are necessary to comply with the Midtown Design Guidelines and to improve the overall appearance of the project. To ensure that the project is in conformance with Midtown Design Guidelines, **staff recommends** a condition of approval that the applicant submit final plans for the project elevation to the satisfaction of the Director of the Department of Planning and Neighborhood Services the following modifications:

- ❑ To draw attention and announce the main walkway between the two buildings (off of Great Mall Parkway) an enhanced entry feature and embellishment of the building corners shall be incorporated into the project.
- ❑ The interior corridors that have an opening facing the garage shall incorporate a clear barrier (plastic or glass) to allow light in, while keeping automobile fumes out.
- ❑ The applicant shall provide an increased presence of a pedestrian entrance at the corner of Main and Great Mall Parkway to accommodate and provide convenient access for future tenants that use transit.
- ❑ The use of the rust red color shall be used judiciously to minimize the height and bulkiness of the structure.
- ❑ The applicant shall incorporate additional exterior architectural enhancements such as sills, trim, overhangs, and the like.
- ❑ All windows shall be clear or “Special E”.

Recreation Amenities

The applicant is proposing 464 residential units that are a mixture of 1, 2, and 3 bedroom units. With the multi-bedroom units, it is reasonable to expect that there will be a population of younger residents in the complex. The applicant has proposed a one piece climbing structure, which appears to be more appropriate for older children. **Staff recommends** a more appropriate type of play equipment be incorporated into the project for younger children, which shall be to the approval of the City.

The applicant is proposing recreation amenities throughout the site. In the plaza areas, barbecue and benches are proposed in this area. To make better use of these areas and to provide different amenities, **staff recommends** the applicant provide different and creative amenities in the plaza area between the two buildings that currently shows a barbecue facility.

The applicant is proposing a pool equipment enclosure in both pool areas. To ensure that the design of the enclosure fits well with the development and is of a high design quality, **staff recommends** that a condition of approval require that detailed plans for recreation areas be submitted to the satisfaction of the Director of the Department of Planning and Neighborhood Services and be reviewed and approved prior to construction.

Landscaping

The applicant is proposing landscaping with a mix of hardscape and softscapes which provides an urban feel to the site. While the proposed landscaping plan shows tree species and locations, it does not show details for other landscaping. As such, **staff recommends** that prior to building permit, detailed landscaping plans be submitted to the City for review and approval.

To ensure that the landscaping has the best long-term growing environment possible, especially in tighter landscape areas, **staff recommends** the project incorporate the use of structural soil in landscape areas that have tight spaces (less than 6 feet in width).

The Midtown guidelines recommend that unit pavers be used for walkways throughout the site. Incorporating unit pavers adds interest to the sidewalks and provides some infiltration of stormwater into the ground. As such, **staff recommends** that unit pavers be interspersed along walkways throughout the site and at key intersection points and gathering places.

Additional **staff recommendations** in regards to landscaping include:

- ❑ No bollards are to be used to obstruct access to fire lanes.
- ❑ Provide accent trees at all vehicular entrances into the project site.
- ❑ Support structures shall be provided for all vines and climbing plant material to ensure upright growth.
- ❑ Structural soil shall be used for all landscaping in the public right-of-way.
- ❑ Fences used throughout the site shall include vertical elements to break and vary the horizontal elevation lines.
- ❑ All tree specimens except for the eucalyptus trees shall be of a 24-inch box size or greater.
- ❑ Prior to issuance of a building permit, plans shall show that all planter areas have an automatic, self watering system installed.

Lighting

The applicant has proposed different lighting standards for the site. There is pedestrian scale lighting, including bollards along walkways and parking lot lighting. To review the effectiveness of the lighting provided on the site, staff required a photometric plan to be submitted to ensure that the site was providing adequate lighting. Based on the plan, there are areas of the site that are dark with a reading of 0.0. In addition, certain areas of the plan are inconclusive because the readings stop short. To ensure that there is adequate lighting at the site, **staff recommends** the applicant provide a revised lighting plan that includes up to 50 feet off of the project site and light measurements from every outdoor area of the site plan. Adjustments to lighting will be made according to this revised plan.

Solid Waste

As part of the solid waste facilities for the project, the applicant is proposing to have garbage chutes and bins within the project, with the storage of the bins in the parking garage. Trash would be picked up by use of “scout trucks” which enter the structure, secure the trash

containers, deliver them to the large truck for emptying, and return the containers to the bin storage area. Staff is concerned that no areas have been identified for either building where a scout truck could bring containers for emptying that would not block access for emergency vehicles. The applicant has not yet identified a location where the temporary staging of the garbage bins will occur. In addition, staff is concerned about the potential amount of time that the bins could be left out in the open. Thus, **staff recommends** the applicant provide a written explanation and plans and procedures for the handling of solid waste to the satisfaction of the Director of the Department of Planning and Neighborhood Services (one for each building) prior to issuance of building permits.

Stormwater Runoff

The applicant has submitted a stormwater control plan for the site to demonstrate compliance with State C.3 (stormwater) regulations.

To comply with C.3 requirements, the applicant has incorporated various measures and equipment into the project. The site is broken up into five (5) distinct areas, with each area offering a stormwater control solution to accommodate the stormwater flows. The majority of the southern portion of the site will accommodate stormwater flows through the use of a man-made landscape swale that will allow runoff to collect and be filtered in this area prior to discharge into the storm drain system. The remainder of the site will incorporate drainage into landscape areas and ultimately the use of mechanical equipment to filter stormwater runoff prior to discharge. The parking garage will include an oil-grease separator for an added means to ensure stormwater quality.

To allow the fine-tuning and detail modifications of the stormwater control plan, **staff recommends** prior to issuance of any project permits, the plan be completed to the approval of the City.

Park Fees

Residential developments in the R4 zoning district and Midtown Specific Plan is required to provide park and open space at a ratio of 3 ½ acres per 1,000 people. As per Section 8.07-1 of the Zoning Ordinance, up to 42.857% of the public park and open space requirement may be provided in the form of private recreational space, which would include on-site usable common areas or private open space. Park fees are calculated in the Midtown Specific Plan based on an average cost to develop one acre of trail of \$600,000.00. The number of dwelling units is multiplied times the square footage of park required to get a total park acreage required. Acres of private open space and acres of public land to be dedicated are subtracted from the total acres to yield the number of acres subject to an in-lieu park fee. This number is multiplied times \$600,000 to get the total. The park fees for the former Fairfield project and the current Centria project are as follows:

	FAIRFIELD	CENTRIA
Dwelling Units	481	464
Public Acres	2.58777	2.3404
Private Acres	1.94083	1.75530427
Park Acres	4.5286	4.0957102
Acres of public land dedicated	0.39	0.39
Acres subject to payment	2.19	1.950406
In Lieu Fee	\$1,314,786	\$1,170,244

The 1.95 private acres required on-site would be met with on-site amenities including balconies, patios, courtyards, recreation rooms, pool and spa areas, and other landscape areas. Part of the required public park acres would be satisfied with the dedication of 0.39 acres along Penitencia Creek. The applicant will improve this strip of land to create a trail connection between Main and Abel Streets for the future Penitencia Creek trail. Midtown Specific Plan Policy No. 3.25 allows an applicant to provide for the improvement of trails designated in the City's Trail Master Plan as credit towards the public acreage requirement. The project is providing 0.39 acres of improved trail along Penitencia Creek. The trail plan as submitted is conceptual. As such, **staff recommends** a detailed plan including amenities (benches, lighting, trees, etc.) befitting a trail to be submitted to the approval of the City.

The value of the remaining public park requirements of 2.19 acres for the Centria project is \$1,170,244 dollars. **Staff recommends** satisfaction of this obligation through dedication of acreage and/or improvements for park purposes equal to this amount for the Santa Clara County parcel located at the southeast corner of Abel Street and Great Mall Parkway. If however, it can be demonstrated to City staff that this is not possible, an in-lieu fee will be accepted prior to Final Map or building permit approval.

Long-term maintenance of these park improvements are covered in Condition No. 8 which requires participation by the property owner in a future Community Facilities District. The same condition was imposed on KB Home.

Fire Access

In order to satisfy Fire Department requirements, an acceptable fire access at the corner of Great Mall Parkway and Abel Street has yet to be demonstrated, but staff is confident that this can be resolved prior to building permit, options being discussed between applicant and the Fire Department.

Affordable Housing

As previously stated, the applicant has requested to amend the Site Plan Approval to reduce the total number of units in the project (from 481 to 464). The City of Milpitas General Plan Housing Plan has a minimum affordable housing goal of 20 percent. Based on the previous approval, the

applicant would have been required to provide 96 affordable units. The applicant agreed to provide 4 additional low-income 3-bedroom units in the project for a total of 100 affordable units.

Based on the new proposal and overall reduction of units, the applicant would provide 93 affordable housing units (including the 4 additional low-income 3-bedroom units stated above) in the following manner:

- | | | |
|----------------------|--------------------|--------------------|
| • 22 Very Low-Income | 17/1-Bedroom Units | 5/2-Bedroom Units |
| • 4 Low-Income | 4/3-Bedroom Units | |
| • 67 Moderate-Income | 22/1-Bedroom Units | 45/2-Bedroom Units |

Very-low income households are defined at 50% of the County median income. Low-income households are defined at 80% of the County median, and moderate-income households are at 120% of the County median. Currently, the 2006 median income for Santa Clara County is \$105,500 for a family of four

Owner Participation Agreement (OPA)

On March 15, 2005, the Redevelopment Agency (RDA) authorized staff to enter into negotiations with Fairfield Development for the development of a 481 multi-family rental unit development. The Redevelopment Agency assistance was authorized specifically for the development of 96 deed-restricted affordable housing units (24 very low-income and 72 moderate income).

In summary, the previous Owner Participation Agreement (OPA) committed a total of \$1.24 million in affordable housing funds for the development of 24 very low-income and 72 moderate-income units. Funds were pledged in the form of a grant (\$400,000) for payment by the Agency for development impact fees (Building Permit, Private Job Account, Park In-Lieu, Traffic Mitigation, and School Impact Fees) and first-time homebuyers down payment (\$840,000/ \$35,000/per unit).

Based on the reduction of the total number of units and affordable units in the project, the OPA is required to be amended to reflect the new development. The amended OPA will include 93 affordable units. Since the number of affordable units in the project has been reduced by 7.3%, the total financial assistance from the Milpitas Redevelopment Agency has been reduced by the same amount. Therefore, staff will be recommended to the RDA, that the financial assistance for this project be reduced from \$1.24 million to \$1.14 million. Funding will include \$379,480 in the form of a grant and the balance of \$760,520 for down payment assistance to the homebuyers.

The Owner Participation Agreement (OPA) will be reviewed by the Redevelopment Agency at its meeting on June 6, 2006.

Noise

The project is located adjacent to Great Mall Parkway and the raised light rail tracks. In addition, the project is between Main and Abel Street. Because of its location amidst heavily used streets

and the light rail, an acoustical study was submitted that analyzed the external and internal noise levels for the proposed project.

Exterior Noise

The report identified that exterior outdoor private living areas (rear yard areas, private balconies or patios) would be exposed to noise impacts due to the combined roadway and light rail noise. To reduce noise levels in these private outdoor living areas, **staff recommends** a noise barrier (for outdoor patio areas) be installed for all units facing Great Mall Parkway with a solid material of at least 4-lbs/square feet weight with no gaps, up to a height of four (4) feet.

Interior Noise

For residential uses, the *interior* noise level cannot exceed a 45 dBA Ldn (a 24 hour average, day-night noise level) standard. It is expected that common building construction in California will provide the necessary mitigation to bring the level below the 45 dBA Ldn limit. However, areas that could be susceptible to noise impacts are the windows and doors. To ensure that they do not allow noise levels to increase above 45 dBA Ldn, the noise study concluded and **staff recommends** that windows and doors (including the complete assembly with operable sash, not only the glass) on units that are in the 68 and above Ldn noise zone with direct line-of-site to Great Mall Parkway shall have sound-isolating performance of at least STC31. In addition, because of the impact of the elevated light rail on upper levels of the building, the following requirements shall also apply for all units that have line-of-sight to the light rail:

- ❑ Zone 68 Ldn and above with line of sight to the light rail shall have window and door frame noise rating of STC 34.
- ❑ Zone 68 Ldn and above with no line of sight to the light rail shall have window and door frame noise rating of STC 31.
- ❑ Zone 67 Ldn and below with line of sight to the light rail shall have window and door frame noise rating of STC 31.
- ❑ Zone 67 Ldn and below with no line of sight to the light rail shall have standard window and door frame noise rating.

All other windows and doors in areas below 68 Ldn may have standard insulated windows and doors.

In addition, because these noise levels can only be achieved with windows closed, **staff recommends** that separate air ventilation to meet Title 24 fresh air requirements shall be required for all units in the project.

Transportation/Traffic

The proposed project will generate new trips impacting the area. As identified in the Midtown Specific Plan EIR, most traffic impacts cannot be mitigated over the long term. The City adopted EIR contained overriding considerations for these impacts. However, the Midtown EIR did identify that fair share contributions would be required for projects that impact intersections and roadways. In addition, any project that generates more than 100 peak hour trips, is required by the Congestion Management Program to complete a traffic impact analysis.

In the traffic report 19 intersections were evaluated in accordance with the Congestion Management Program during the AM and PM peak hours. The result of the study identified that the project will not result in any significant impact on the intersections. The City requires all projects within the Midtown area to make a “fair share” contribution for the cumulative traffic impacts generated by the project. Based on 229 trips as a result of the project, the Midtown-related traffic impact fee will be \$25,877.

In addition to the Midtown traffic impact fee, the City also has an impact fee for any project that impacts Montague Expressway. As part of the future widening of Montague Expressway, the city levies a fee on any project that adds new trips to the expressway. Staff has recalculated the traffic fees due to the reduction in dwelling units from 481 units to 464 units. It is now expected that this project will add 164 PM peak hour trips, equating to a share of \$148,092. Thus, *staff recommends* the applicant pay total traffic fees for the project totaling \$173,969 dollars.

Neighborhood/Community Impact

The previous traffic section covered these impacts and the project is providing fees to improve the overall flow in the area. In addition, the applicant is conditioned to provide street improvements on Main and Abel Streets, which will help traffic flow in the immediate area.

Hazardous Materials

As identified in the Midtown Specific Plan EIR, any development within 100 feet of any parcel identified on a list of hazardous material sites pursuant to Government Code Section 65962.5 or which has had previous land associated with hazardous materials shall perform a Phase I Environmental Site Assessment. The property is outside this distance, however, a Phase I study was still completed. The results of the study were that no current or historical recognized environmental conditions have been identified on the subject property. Based on the report no additional investigations are warranted at this time, and none are recommended.

Conformance with CEQA

The proposed project is exempt from further environmental review pursuant to Article 8, Section 65457 (CEQA exemption, Specific Plans) of Planning and Zoning law, in that it is a residential development that is consistent with a specific plan for which an environmental impact report (Midtown Specific Plan and associated EIR) has been certified after January 1, 1980.

RECOMMENDATION

Close the public hearing and approve the S-Zone, and Use Permit applications based on findings and special conditions listed.

FINDINGS FOR S-ZONE (P-SZ2006-4) AND USE PERMIT NO. P-UP2006-5

1. The proposed project is exempt from further environmental review pursuant to Article 8, Section 65457 of the State Planning and Zoning Law.
2. The proposed development is consistent with the City of Milpitas Zoning Ordinance in terms of land use and development standards for Multi-Family Very High Density zoning with a Transit Oriented Development Overlay because the proposed development is a high density

(57 DU/acre) residential development that promotes walkability and the creation of a bicycle/pedestrian trail.

3. The proposed development is consistent with the City of Milpitas General Plan in terms of land use and density because the proposed project is a multi-family residential project with a proposed density of 57 DU/acre.
4. As conditioned, the proposed residential development will not be detrimental or injurious to the public health, safety, and general welfare to future residents and to the surrounding community because the project as proposed to be revised is designed with an attractive contemporary architecture, will be built to the requirements of applicable codes, is consistent with the General Plan, the Zoning Ordinance and the Midtown Specific Plan and because the project street landscaping is consistent with the Main Street and Abel Street Streetscape plans and with the City’s Streetscape Master Plan.
5. As conditioned, the layout of the site, design of the proposed building, and landscaping are compatible and aesthetically harmonious with the surrounding area and will improve the aesthetics of the site.
6. The exception associated with the project meets the design intent of the Specific Plan by not adversely impacting the architecture or providing visual impacts.
7. The exception allows the project to utilize smart growth trends in the proposed project.

RECOMMENDED SPECIAL CONDITIONS FOR S-ZONE (P-SZ2006-4) AND USE PERMIT NO. P-UP2006-5

1. **Park In-lieu Fees** - Prior to issuance of any building permits or final map approval, satisfaction of this obligation through dedication of acreage and/or improvements for park purposes of the Santa Clara County owned parcel at the southeast corner of Abel Street and Great Mall Parkway (APN No. 86-12-10) equal to \$1,170,244 dollars shall occur. If however, it can be demonstrated to City staff that this is not possible, an in-lieu fee will be accepted. (P)
2. **Encroachment Permit Agreement - Community Facilities District** - Prior to any occupancy the applicant shall enter into an Encroachment Permit Agreement, with the City for the purpose of maintaining the public improvements installed by the applicant within City right-of way, to City standards, in the following areas:
 - a) Both sides of Abel Street between Great Mall Parkway and Capitol Avenue.
 - b) The south side of Great Mall Parkway between Main and Abel Streets.
 - c) The west side of Main Street between Great Mall Parkway and Penitencia Creek.
 - d) Trail area along project frontage along Penitencia Creek

If the City forms a Community Facilities District for, among other purposes, the purpose of maintaining landscaping along the streets and trails as listed above, the encroachment permit

agreement requirement will be removed. In the event that the City forms the district for such purposes, the applicant, on behalf of itself and its successors in interest, by accepting the permit to which this condition is attached hereby waives any rights it may have to protest its inclusion in the district the purpose of which includes the maintenance of the above areas. The applicant, on behalf of itself and its successors in interest, by accepting the permit to which this condition is attached further waives any right it may have to protest or submit a ballot against the amount of the assessment, provided, however, that the foregoing waiver shall apply only to the extent that the assessment that would be imposed on the applicant's property does not exceed \$100,000 per year, without considering any inflation adjustment factor that may be contained in the assessment. In addition, the applicant, on behalf of itself and its successors in interest, agrees that in the event it fails to submit a ballot in favor of the district, the City may treat this failure to submit a ballot as the submission of a ballot in favor of the district.

As with all project conditions of approval, this condition shall run with the land and any subsequent landowners. (P)

2. **General** - The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (E)
3. **Utilities** - Prior to issuance of any building permits, developer shall obtain approval from the City Engineer of the water, sewer and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (E)
4. **Community Facilities District** - Prior to final map approval, the developer shall submit an executed petition to annex into and establish, with respect to the property, the special taxes levied by a Community Facility District (CFD) for the purpose of maintaining the public services. No final map will be approved without receipt of an executed petition for annexation and consent and waiver executed by the property owners for the CFD for the establishment of special taxes. The developer shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. (E)
5. **Public Improvements** - Prior to final map approval, the developer shall obtain design approval and bond for all necessary public improvements along Main Street, Great Mall Parkway and Abel Street (entire width of the street) including but not limited to curb and gutter, pavement, raised medians on Able and Main Street, sidewalk, signage and striping, bus stops, signal modification, street lights, fire hydrants, storm drain, sewer and water

services, as shown on the Engineering Services Exhibit “T”(dated 4/22/2005). Plans for all public improvements shall be prepared on Mylar (24”x36” sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer’s estimate of the construction cost for faithful performance and 100% of the engineer’s estimate of the construction cost for labor & materials. (E)

6. **Development Fees** - Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, plan check and inspection deposit. These fees are collected as part of the secured public improvement agreement. (E)
7. **Grading Plan** - At the time of final map approval, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. In addition, the proposed development within existing flood plains should not increase the 100-year water surface elevation on surrounding properties nor should it increase existing flooding. A flood plain analysis shall be prepared to delineate the post development flood plain depth and lateral extend. All studies shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior to final map approval. (E)
8. **C-3** - The developer shall comply with Regional Water Quality Control Board’s C.3 requirements and implement the following: (E)
 - a) At the time of building permit plan check submittal developer shall submit a “final” Stormwater Control Plan and Report to the satisfaction of the City of Milpitas. Site grading, drainage, landscaping and building plans shall be consistent with the approved Stormwater Control Plan. The Plan and Report shall be prepared by a licensed Civil Engineer and certified that measures specified in the report meet the C.3 requirements of the Regional Water Quality Control Board (RWQCB) Order, and shall be implemented as part of the site improvements.
 - b) Prior to building permit issuance, the developer shall submit an Operation and Maintenance (O&M) Plan for the long-term operation and maintenance of C-3 treatment facilities.
 - c) Prior to Final inspection/occupancy permit issuance, the developer shall execute and record an O&M Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities.
9. **Water Quality** - The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Construction activities, which disturb 1 acres or greater are, viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. A Storm Water Pollution Prevention

Plan (SWPPP) and a site monitoring plan must also be developed by the applicant, and approved by the City prior to permit issuance for site clearance or grading. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (E)

10. **Flood** - The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in Special Flood Hazard Zone **AO (depth 1)**, therefore, flood proofing is required. Flood proofing can be accomplished by elevating the structure. Per Chapter 15, Title XI of Milpitas Municipal Code (Ord. No. 209.4) the lowest floor elevation (finish floor) of each structure shall be at least one foot above the BFE and the pad elevation shall be at or above the BFE, which is approximately one-foot above the highest adjacent grade. The structures pad(s) shall be properly designed by a registered civil engineer and compacted to meet FEMA's criterion. In addition, the pad(s) shall extend beyond the building walls before dropping below the base flood elevation, and it shall have appropriate protection from erosion and scour. The applicant's civil engineer shall complete and submit a FEMA Elevation Certificate to the City prior to final building inspection, certifying the "as built" lowest floor elevation. Forms are available in the Engineering Division. Additionally, applicant shall demonstrate that this development will not cause any significant increase in flood levels during the occurrence of the base flood discharge. Any trailers, modular buildings, or pre-manufactured dwelling units located on this site for periods of time greater than one year, shall be adequately anchored to resist flotation, collapse and lateral movements per Floodplain Management Regulations. Flood insurance is required for any construction that is financed by government-backed loans. (E)
11. **Maintenance** - Prior to final inspection by the Building Division and certificate of occupancy permit issuance of the last building, the developer shall establish a homeowner association. The homeowner association shall be responsible for the maintenance of the landscaping, walls, private streetlights, common area and private streets and shall have assessment power. This information shall be clearly included in the Conditions, Covenants, and Restrictions (CC&R) and recorded documents. The CC&R document shall be submitted for review and approval by the City Engineer. (E)
12. **Condominium Plans** - Prior to final inspection by the building division and certificate of occupancy issuance for the last phase of the residential units, the developer shall prepare and record condominium plans subject to City review. (E)
13. **Easements** - The developer shall dedicate on the final map necessary public service utility easements, street easements and easements for water and sanitary sewer purposes. The developer shall also dedicate necessary public access and trail easement for the proposed public trail and vehicular access easement to Santa Clara Valley Water District for creek maintenance along Lower Penitencia Creek frontage, as shown on the Engineering Services Exhibit "T"(dated 4/22/2005). (E)
14. **Right-of-way** - Prior to final map approval, the developer shall dedicate adequate right of way for pedestrian purposes crossing the driveways. (E)

15. **General** - This approval is for a 464-unit multi-family residential development in two buildings and Use Permit No. UP2006-5 to grant an exception to allow exceedance of the number of building levels. (P)
16. **General** - The proposed project shall be conducted in compliance with all applicable federal, state, and local regulations. (P)
17. **Phase** - Prior to occupancy of the first phase of the project, building permits shall be procured and construction begun (building slab be installed) on the second phase. (P)
18. **Architecture** - Prior to building permit issuance, permit plans shall incorporate the following modifications to the approval of the Planning Division. (P)
 - a) An enhanced entry feature and embellishment of the building (east and west buildings) corners shall be incorporated in the project in the area between the two buildings at the Great Mall Parkway elevation.
 - b) The interior corridors that have an opening facing the garage shall incorporate a clear barrier (plastic or glass) to allow light in, while keeping automobile fumes out.
 - c) The applicant shall provide an increased presence of a pedestrian entrance at the corner of Main and Great Mall Parkway to accommodate and provide convenient access for future tenants that use transit.
 - d) The use of the rust red color shall be used judiciously to minimize the height and bulkiness of the structure.
 - e) The applicant shall incorporate additional exterior architectural building enhancements such as sills, awnings, and the like.
 - f) All windows shall be clear or “Special E”. (P)
19. **Play Equipment** - Prior to building permit issuance, permit plans shall include play equipment for young children to the approval of the Planning Division on each parcel (both east and west building sites). (P)
20. **Plans for recreation areas** - Detailed plans for recreation areas be submitted to the satisfaction of the Director of the Department of Planning and Neighborhood Services and be reviewed and approved prior to construction. (P)
21. **Sidewalk** - Prior to building permit issuance, plans shall show the continuation of the sidewalk condition along Abel and Great Mall Parkway to complete the pedestrian connection. Prior to occupancy, the sidewalk shall be in place. (P)
22. **Streetscape improvements** – The Final Landscape Plan shall show to the satisfaction of the Director of the Department of Planning and Neighborhood Services that the project improvements on Main Street, Abel Street and Great Mall Parkway are consistent with the Abel Street and Main Street streetscape improvements occurring just north of the site.

23. **Parking Structure Layout** - Prior to building permit issuance, permit plans shall include layouts of each level of the parking structure to ensure that the required parking is provided. (P)
24. **Guest Parking** – Prior to issuance of building permits revised plans shall be provided to the satisfaction of the Director of the Department of Planning and Neighborhood Services showing 72 guest parking spaces are provided on the west parcel and 30 spaces are provided on the east parcel.
25. **Barbecue** - Building permit plans shall show a barbecue facility that shall be provided on the eastern parcel of the project. (P)
26. **Pool Enclosure** - Prior to building permit issuance, details of the proposed pool equipment enclosure shall be reviewed and approved the Planning Division. (P)
27. **Landscaping** - Prior to building permit issuance, the following modifications shall be incorporated into the final landscaping plan to the approval by the Planning Division: (P)
- a) Structural soil shall be used in landscape areas that have any dimension that is less than six (6) feet.
 - b) Structural soil shall be used in all landscape areas within the public right-of-way.
 - c) Unit pavers shall be used in key locations and pedestrian gathering areas.
 - d) No bollards are to be used to obstruct access to fire lanes.
 - e) Accent trees shall be used at all vehicular entrances into the project site.
 - f) Support structures shall be provided for all vines and climbing plant material to ensure upright growth.
 - g) Structural soil shall be used for all landscaping in the public right-of-way.
 - h) Fences used throughout the site shall include vertical elements to break and vary the horizontal elevation lines.
 - i) All tree specimens except for the eucalyptus trees shall be of a 24-inch box size or greater.
 - j) Prior to issuance of building permit, plans shall show that all planter areas have an automatic, self-watering system installed.
28. **Trail Improvements** - Prior to building permit issuance, a detail plan of the new trail adjacent to Penitencia Creek shall be submitted and approved by the City. The plan shall include pedestrian scale amenities including trees, benches, pedestrian lighting and the like. (P)
29. **County Parcel** - No approval of improvements is granted for the County parcel (APN: 086-12-010). (P)
30. **Fire Access** – No fire access options provided in the plans are approved, as further information is required prior to City approval. (P)

31. **Noise** - Prior to building permit issuance, a four (4) foot tall noise barrier for outdoor patio/deck areas shall be incorporated into the project. (P)
32. **Noise** - Prior to building permit issuance, windows and doors (including the complete assembly with operable sash, not only the glass) on units that are in the 68 and above Ldn noise zone with direct line-of-site to Great Mall Parkway shall have sound-isolating performance of at least STC31. In addition, because of the impact of elevated light rail on upper levels of the building, the following requirements shall also apply for all units that have line-of-sight to the light rail:
 - a) Units in zone 68 Ldn and above with line of sight to the light rail shall have window and door frame noise rating of STC 34.
 - b) Units in zone 68 Ldn and above with no line of sight to the light rail shall have window and door frame noise rating of STC 31.
 - c) Units in zone 67 Ldn and below with line of sight to the light rail shall have window and door frame noise rating of STC 31.
 - d) Units in zone 67 Ldn and below with no line of sight to the light rail shall have standard window and door frame noise rating.All other windows and doors in areas below 68Ldn may have standard insulated windows and doors. (P)
33. **Noise** - Prior to building permit issuance, permit plans shall show that all units in the project shall include separate air ventilation to meet Title 24 fresh air requirements. (P)
34. **Downspouts** - Prior to building permit issuance, building permit plans shall include the locations of building downspouts to the approval of the Planning Division. If downspouts are exposed they shall be designed to blend with the building. (P)
35. **Bicycle Parking** - Prior to building permit approval, bicycle parking areas shall be noted on plans and shall demonstrate meeting the 5% bicycle parking requirement (24 spaces on the west parcel and 10 spaces on the east parcel). (P)
36. **Mechanical Equipment** - All mechanical equipment and boxes shall be screened from all views (public and private). (P)
37. **Stormwater** - All stormwater facilities (mechanical and non-mechanical) shall be maintained on an annual basis, in perpetuity, by the property owner. (P)
38. **Stormwater** - Prior to issuance of any project permits, the stormwater plan shall be approved by the City. (P)
39. **Stormwater** - Prior to building permit issuance, plans shall show that roof downspouts drain to landscape areas where possible. (P)
40. **Lighting** - Low-pressure sodium lamps shall not be used anywhere on the site. White light shall be used throughout the site. (P)
41. **Lighting** - Prior to building permit issuance, a revised lighting plan shall be provided that covers all open areas of the site and up to 50 feet off of the property. In addition, appropriate

levels of lighting shall be provided along every pedestrian pathway on the site, no unlighted areas. (P)

42. **Solid Waste** - Prior to building permit issuance, two garbage pick-up locations (one for each building/parcel) shall be identified and designed to the approval of the City. (P)
43. **Solid Waste** – Prior to building permit issuance, the project shall implement solid waste “scout” truck service or another service that minimizes the amount time that garbage bins are left out for pickup to the approval of the City. (P)
44. **Signage** - No approval for signage is provided at this time. All signage will require further review and approval by the City, as per Section 3 of the Sign Ordinance. (P)
45. **BMP’s** - During all construction activities on-site, the project applicant/developer shall adhere to the following Best Management Practices as suggested by BAAQMD: (P)
 - a) Watering all exposed or disturbed soil surfaces, at least twice daily, as necessary to eliminate visible dust plumes;
 - b) Cover all trucks hauling soil, sand and other loose materials or require all trucks to maintain at least a 2 feet freeboard level within their truck beds;
 - c) Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles of debris, soil, sand, or other materials;
 - d) Suspension of all earthmoving or other dust-producing activities or equipment during periods of high winds when watering cannot eliminate visible dust plumes;
 - e) Apply water 3 times daily or apply (non-toxic) soil binders on all unpaved access roads parking areas and staging areas at construction sites;
 - f) Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
 - g) Sweep streets daily with water sweeper if visible soil material is carried onto adjacent public streets;
 - h) Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more).
 - i) Limit traffic speeds on unpaved areas to 5 mph.
46. **BMP’s** - During construction, the developer/applicant shall adhere to the following Best Management Practices (BMPs) as suggested in the Santa Clara Valley Non-point Source Pollution Control Program's "Best Management Practices for Industrial Storm Water Pollution Control": (P)
 - a) Store building materials under cover or in enclosed areas.
 - b) Before painting, spread a ground cloth to collect paint.
 - c) Mix paint indoors before starting work.
 - d) Keep paint buckets away from contact with storm water.

- e) Capture any paint spills before they flow into a storm drain.
 - f) During painting cleanup use proper procedures and prevent paint from flowing into storm drains.
47. **Ground Disturbing** - Any future ground disturbing activities on the Project Site shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to CEQA Guidelines § 15064.5 regarding discovery of archeological sites and burial sites, and Guidelines § 15126.4(b) identifying mitigation measures for impacts on historic and cultural resources. (Reference CEQA §§ 21083.2, 21084.1.) In the event that buried cultural remains are encountered, construction will be temporarily halted until a mitigation plan can be developed. In the event that human remains are encountered, the developer shall halt work in the immediate area and contact the Santa Clara County coroner and the City of Milpitas. The coroner will then contact the Native American Heritage Commission (NAHC) which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will then have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods. (P)
48. **Solid Waste** - Covered areas for trash receptacles or enclosed features to prevent direct contact with precipitation. (P)
49. **Pesticides** - Controlling herbicides, pesticides and fertilizer usage through the use of a licensed landscape maintenance company. (P)
50. **Pesticides** - The City Planning staff shall have approval authority for the installation of comparable substitute pest-resistant plant materials to satisfy the requirements of the approved landscape plan when the approved plants and materials are unavailable for installation, or when other unforeseen conditions prevent the exact implementation of the landscape plan. (P)
51. **Stormwater** - Prior to issuance of Certificate of Occupancy, the applicant shall submit a Stormwater Control Operation and Maintenance (O&M) Plan, acceptable to the City, describing operation and maintenance procedures needed to insure that treatment BMP's and other stormwater control measures continue to work as intended and do not create a nuisance (including vector control). The treatment BMP's shall be maintained for the life of the project. The stormwater control operation and maintenance plan shall include the applicant's signed statement accepting responsibility for maintenance until the responsibility is legally transferred. (P)
52. **Stormwater** - Prior to building, site improvement or landscape permit issuance, the building permit application shall be consistent with the applicant's approved Stormwater Control Plan and approved special conditions, and shall include drawings and specifications necessary to implement all measures described in the approved Plan. As may be required by the City's Building, Planning or Engineering Divisions, drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining

areas, treatment BMP's, permanent source control BMP's, and other features that control stormwater flow and potential stormwater pollutants. Any changes to the approved Stormwater Control Plan shall require Site & Architectural ("S" Zone) Amendment application review. (P)

53. **Landscaping** - All landscaping shall be installed for each section of the project that is requesting an occupancy permit. (P)

54. **Fees** - If at the time of application for permit there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)

55. **Fees** - If at the time of application for a certificate of occupancy there is a project job account balance due to the City for recovery of review fees, a certificate of occupancy shall not be issued until the balance is paid in full. (P)

56. **Affordable Housing** - Prior to building permit issuance, the applicant shall provide proof of the provision of 5% of total units to be available at the very low affordability level, and 15% of the total units to be available at the moderate affordability level. (H)

57. **Affordable Housing** - Prior to the issuance of any permit, the applicant shall provide documentation to the approval of the City Attorney that the following 93 affordable housing units (20% of allowed 464 units) will be available at a housing cost affordable to very low and moderate-income households as noted in the matrix below:

Income Level	No. of Units	Unit Type
Very Low	22	17 one bedroom units and 5 two bedroom units
Low	4	4 three bedroom units
Moderate	67	22 one bedroom units and 45 two bedroom units

58. **Affordable Housing** - As part of the identified public benefit for this project, prior to issuance of building permits, the following conditions shall be met: (H)

- a) Prior to occupancy, the applicant shall provide to the City of Milpitas Redevelopment Agency, Executive Director, for review and approval, a dispersement plan exhibit illustrating the location of the affordable housing units within the development. The affordable housing units shall be dispersed equally throughout the development and shall contain the same architectural features, design and amenities as the fair market rate units in the development. (H)

59. **Affordable Housing** - Income eligibility for the required number of affordable units shall be determined pursuant to the California Health and Safety Code Sections 50079.5, 50093 and 50105, which provide that the very low limits established by the U.S. Department of Housing and Urban Development (HUD) are the state limits for that income category. (H)

60. **Affordable Housing** - The applicant and the City of Milpitas shall enter into Restriction Agreements that outline the provisions for maintaining the long-term affordability of the required affordable rental units. The Restriction Agreements shall be approved to form by the Milpitas City Attorney’s Office, executed by the City Manager and recorded with the County of Santa Clara. (H)
61. **Affordable Housing** - The Restriction Agreements shall require that the long-term affordability of the rental housing units shall remain in effect for fifty-five (55) years. Any change to this requirement is subject to review and approval by the Milpitas City Council. (H)
62. **Affordable Housing** - The applicant shall work with the Housing Division staff in establishing and determining the waiting list of eligible residents that are qualified for the project. (H)
63. **Affordable Housing** - The established affordable rents for the rental apartment shall be pursuant to income eligibility provided by the California Health and Safety Code Sections 50079.5, 50093 and 50105 which provide the "very low" limits established by the U.S. Department of Housing and Urban Development (HUD) are the state limits for those income categories and State of California Redevelopment Agency Law. The final affordable rents established for the apartment units shall not exceed the maximum allowable rents for “very low” households as defined in the above code sections. Said rents shall be approved for consistency with the definitions by the Housing Division staff. (H)

Fire Department Conditions

64. The 2001 triennial edition of the California Code of Regulations, Title 24 (California Building Standards Code) applies to all occupancies that apply for a building permit on or after November 1, 2002, and remains in effect until the effective date of the 2004 triennial edition. (F)
65. The submitted drawings are not reviewed nor approved for fire permits and construction. These notes are provided to assist with the Fire Department permit process. (F)
66. A public address emergency warning system may be required for this project. Determination will be made by the Milpitas Fire Department. (F)
67. The owner or operator of any privately owned high-rise structure, any office building two stories or more in height, or any hotel or motel shall comply with the Emergency Planning and Information regulations found in Section 3.09 of Title 19, CCR (California Code Of Regulations). (F)
68. Fire protection, including fire apparatus access roads and water supplies for fire protection (hydrants) shall be installed and made serviceable prior to and during the time of construction. California Fire Code (CFC) Section 901.3. (F)
69. Fire safety during construction, alteration or demolition of the building shall meet the requirements of Article 87, CFC, and the Standards for Construction Site Fire Safety (un-024) by “unidocs” organization (<http://www.unidocs.org>). (F)
70. **Adjacent Access.** No source of access from lands adjoining a property to be developed shall be considered unless there is obtained the irrevocable and unobstructed right to use same.

CFC Section 902.2.1.2 amended by Milpitas Municipal Code V-300-2.01. (F)

71. An approved fire apparatus access (emergency vehicle access) roadway shall be provided between the buildings. The fire apparatus access roadway shall connect Great Mall Parkway and the private road at the southwest side of the project. (F)
72. The east garage entrance for the west building shall be provided with an approved (by City of Milpitas Fire Department) hammerhead for fire apparatus turn-around. (F)
73. The west building (against county property) lacks fire access. Means shall be provided to have fire apparatus access. Access shall accommodate a fire platform-ladder truck. Provide access (minimum 20' wide) off Abel Street and staging area (minimum 20'x66') into courtyard. Additional reviews will be required by the Milpitas Fire Department to define minimum fire apparatus access. (F)
74. Provide a staging area for the fire platform-ladder truck at the south corner of the north building. (F)
75. Provide KNOX lock (quantity and location to be determined by the Fire Dept.) for Fire Department access to all exterior doors and gates. CFC Section 902.4. (F)
76. Four Fire fighter access points shall be provided to each garage. (F)
77. An approved water supply capable of supplying the required fire flow for fire protection shall be provided. Appendix III-A shall be used as the basis for determining Fire Flow. CFC Section 903.2, 903.3. (F)
78. The location, number and type of fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public street or on site or both as required and approved by the Fire Department. See Appendix III-B. CFC Section 903.4.2. (F)
 - ❑ Existing fire hydrants on public streets are allowed to be considered as available. Existing hydrants on adjacent properties shall not be considered available unless fire apparatus access roads extend between properties and easements are established to prevent obstruction of such roads. CFC Appendix III-B, Section 4.
 - ❑ No parking is permitted in front of fire hydrants or other fire appliances. Hydrants located on street (public street) shall have an unobstructed clearance of not less than 30 feet per Vehicle Code 22513. Fire hydrants shall be clearly identified in an approved manner to prevent obstruction by parking and other obstructions. CFC 901.4.3, 903.4.2.
 - ❑ The location and quantify of hydrants located on the street (public street) will be determined by the Fire department. CFC Sections 903.4.2, 1001.9, 1001.10.
 - ❑ Location and quantity of on site hydrants will be determined by the Fire Department. A 3 feet clear space shall be maintained around the circumference of fire hydrants located in the courtyards. CFC Sections, 1001.7.2, 1001.9, 1001.10.
 - ❑ Additional hydrants and or standpipes shall be provided at the garage floor levels. Quantity and location of additional appliances shall be determined by the Fire

Department. CFC Section 1001.9, 1001.10.

79. Portable fire extinguishers shall be installed in occupancies and locations as set forth in the code, California Code of Regulations Title 19, Division 1, and Chapters 1 and 3 and as required by the Milpitas Fire Chief. CFC Section 1002.1. (F)
80. An automatic fire extinguishing (sprinkler) system shall be installed throughout this building per the CFC Section 1003 and Section 1003.2.2, as amended by the Milpitas Municipal Code V-300-2.01. In all buildings hereafter constructed three or more stories or 35 feet in height, or 10,000 square feet or more in area or having a Fire Flow of greater than 2,000 gallons per minute. Appendix III-A shall be used as the basis for determining Fire Flow. (F)
81. Fire Department Sprinkler Connection. The connection through which the Fire Department can pump water in the sprinkler system shall not be attached to the building and shall be located as near as practicable to a public fire hydrant. The point of connection shall be at the direction of the Fire Department CFC Section 1003.1.1.2, amended by Milpitas Municipal Code Section V-300-2.01. The location for the PIV's and FDC's shall be off Great Mall Parkway. This is for all buildings. Proper and permanent identification for each system is required. The PIV's shall incorporate a visual alarm (red strobe light) to identify water flow. (F)
82. Floor area defined. For the purpose of determining the requirement for automatic fire sprinkler protection “floor area” shall mean the sum of the square footage to include basement and all stories within the surrounding exterior walls of the structure. Floor area shall also include the sum of all horizontal projections of the roof or other projections beyond the exterior walls of the structure. For structures, or portions of structures, not provided with exterior walls, the floor area shall be the sum of the area under the horizontal projections of the roof. For the purpose of this Section, Area Separation Walls shall not define separate buildings. EXCEPTION: Four hour rated area separation walls with no openings. Section 1003.1.1.4, CFC as amended by the Milpitas Municipal Code V-300-2.01. (F)
83. The automatic fire sprinkler system shall be electrically monitored. Alarm and trouble signals shall be distinctly different and shall be automatically transmitted to an approved central station, remote station or proprietary monitoring station. CFC Section 1003.3. (F)
84. An approved audible sprinkler flow alarm shall be provided. CFC Section 1003.3.2. (F)
85. Provide standpipe systems as per Table 1004-A as amended by the Milpitas Municipal Code Section V-300-2.01. (F)
 - ❑ Standpipes are required at each stairs enclosure. A standpipe is required at each floor level.
 - ❑ Standpipe(s) on roof are required. Location and quantity shall be at the direction of the Fire Department. CFC Section 1004.3.
86. Provide an approved manual and automatic Fire Alarm System. Design, installation and maintenance shall be in accordance with the CFC and other nationally recognized standards. Submittals shall include, but not be limited to, a floor plan, location of all alarm initiating and alarm signaling devices, alarm control and trouble signaling equipment, annunciation, power connection including backup, battery calculations, wiring type and sizes, manufacturers cut

sheets and California State Fire Marshal listing number for all equipment, point to point wiring diagram, and sequence of operations. CFC Section 1006.2.9.1.1. (F)

87. Smoke detectors shall be provided in all common areas and interior corridors of Group R, Division 1 Occupancies. CFC Section 1006.2.9.1.3. (F)
88. Heat detectors shall be provided in all common areas such as recreational rooms, laundry rooms, furnace rooms, and similar areas. CFC Section 1006.2.9.1.4. (F)
89. Rooms for persons with hearing impairments shall be provided with visible and audible alarm-indicating appliances, activated by both the in-room smoke detector and the building fire alarm system. CFC Section 1006.2.9.1.5. (F)
90. Approved single station smoke alarms or multiple-station smoke alarms shall be installed in dwelling units, congregate residences and hotels and lodging house guest rooms. Single-station smoke alarms or multiple station smoke alarms shall not be connected to a fire alarm system (Section 1006.2.9.1.5). CFC Section 1006.2.9.1.6. (F)
91. Assembly areas with 50 or more occupants shall be designed for assembly type occupancy and shall conform with the following requirements: (F)
 - ❑ Buildings housing Group A Occupancies shall front directly on or discharge to a public street not less than 20 feet in width. The exit discharge to the public street shall be a minimum 20 feet wide unobstructed and maintained only as exit discharge. Location shall be at the main building entrance located on South Main Street. California Building Code (CBC) Section 303.3.
 - ❑ Exit doors shall swing in the direction of exit travel when serving any hazardous area or when serving an occupant load of 50 or more. CFC Section 1207.2.
 - ❑ Exit doors from group A Occupancy shall not be provided with a latch or lock unless it is panic hardware. CFC Section 2501.8.2. NOTE: Panic hardware shall be installed in accordance with UBC Std. No. 10-4 per the California Building Code Section 1003.3.1.9.
 - ❑ Exit signs conforming to the requirements of the California Building Code shall identify the path of exit travel to and within exits in a building. CFC Section 1212.2.
 - ❑ Graphics, illuminations, and power supply of exit signs shall be in accordance with the CFC Sections 1003.2.8.3, 1003.2.8.4, 1003.2.8.5.
 - ❑ The means of egress shall be illuminated at any time the building is occupied with light intensity of not less than 1-foot candle at the floor level. In the event of a failure, illumination shall be automatically provided from an emergency system such as storage batteries or on-site generator set and should be installed in accordance with the National Electrical Code. CFC Sections 1003.2.9.1 and 1003.2.9.2.
 - ❑ Each room (or area) having an occupant load of 50 or more where fixed seats are not installed, and which is used for classroom, assembly, dining, drinking or similar purpose, shall have the capacity of the room posted in a conspicuous place on an approved sign near the main exit from the room. Posting shall be by means of a

durable sign having contrasting color from the background to which it is attached.
CFC Section 2501.16.

92. Provide Stairway to roof. In buildings four or more stories in height, one stairway shall extend to the roof surface (one roof access at each isolated flat roof area), unless the roof has a slope steeper than 4 units vertical in 12 units horizontal. California Building Code (CBC) Section 1003.3.3.11. (F)
93. Roof hatches. All required interior stairways that extend to the top floor in any building four or more stories in height shall have, at the highest point of the stair shaft, an approved hatch. CFC Section 1003.3.3.12. (F)
94. Natural ventilation for the open parking garage shall conform to the requirements of Section 311.9.2.2, California Building Code (CBC). (F)
95. Parking garages not meeting the requirements of “open parking garage” per the CBC Section 311.9.2.2, shall be provided with smoke removal system in addition to the ventilation requirements of the CBC Section 1202.2.7. CFC Sections 1001.9 and 1001.10. (F)
96. The exit enclosures (stairs) shall be provided with exit directly to the exit discharge or the public way. CBC Section 1005.1. (F)
97. Enclosed courts. Fire access shall be provided to enclosed courts for fire fighting and rescue operations. The fire department will provide minimum access requirements during permit plan review. (F)
98. Group R, Division 1 Occupancies more than two stories in height or having more than 3,000 square feet of floor area above the first story shall not be of less than one-hour fire-resistive construction throughout, except as provided in Section 601.5.2.2. Section 310.2.2, CBC. (F)
99. Storage or laundry rooms that are within Group R, Division 1 Occupancies that are used in common by tenants shall be separated from the rest of the building by not less than one-hour fire-resistive occupancy separation. CBC Section 310.2.2. (F)
100. Additional approved low-level exit signs that are internally or externally illuminated, photoluminescent or self-luminous, shall be provided in all interior corridors serving Group R, Division 1 Occupancies. CBC Section 1007.6.2.2.1. (F)
101. Buildings over four stories. Special Provisions For Group B Office Buildings And Group R, Division 1 occupancies. All Group B office buildings and Group R, Division 1 Occupancies, each having floors used for human occupancy located more than 60 feet above the lowest level of Fire Department vehicle access, or more than 4 stories shall comply with the following requirements: (F)
 - a. A system capable of supplying air (to all levels of the structure) for the purpose of filling air bottles shall be provided. It shall be designed to meet Fire department needs and demands; be tested annually and maintained at the expense of the owner. It shall be for Fire department use only.
 - b. Equipment rooms or areas, as required by the Chief, designed to store equipment for Fire department use shall be provided. They shall be located every four (4) floors, be sized to meet Fire departments needs (a minimum of 42 inches wide, 20 inches in depth and full height), and be locked and labeled for Fire department use only. The following list of equipment shall be supplied by the developer or owner for each equipment room and fire control room:

- (4) each air bottles, meeting Fire department specifications, and supplied for Fire department use only;
 - (2) each, Hotel Hose pack with 100 feet of 1-3/4 inch fire hose and a 1-1/2 inch variable fog nozzle, both having National Standard threads. Hose shall be of poly-light weight construction. One 2-1/2 inch x 1-1/2 inch reducer coupling also provided;
 - (2) each, Pick Head axe (6 pound 36" handle);
 - (1) each Wrecking Bar, 3 feet in length;
 - (1) each Hooligan tool, 11 pound;
 - (12) each door stops;
 - (3) each, spare sprinkler heads, for each type used. (These are in addition to those required in the riser room);
 - (1) each, Sprinkler head wrench (es), one for each type of head;
 - (4) each, 18 feet x 24 feet salvage covers with grommets every 16 inches;
 - (1) each, folding aluminum ladder, 17 feet in length, Carbis E-Z ladder, Model 170.
- c. Anchor devices meeting Fire department requirements shall be placed on the roof and used by the Fire department for repelling purposes.
102. Elevators shall comply with Chapter 30 of the California Building Code. (F)
103. When the elevator vertical travel is 25 feet or more, each associated elevator lobby or entrance area and associated machine rooms shall be provided with an approved, listed smoke detector for elevator recall purposed only. Section 3003.2, California Building Code (CBC). (F)
104. The elevator shall be provided with emergency devices for summoning assistance in conformance with Section 3003.4.18 through 3003.4.18.4, CBC. (F)
105. All buildings and structures with one or more passenger service elevators shall be provided with not less than one medical emergency service to all landings meeting the provision of sections 3003.5a through 3003.6.2a, CBC. All residential floor levels and all garage floor levels shall be provided with medical emergency service elevator. (F)
106. Elevators equipped with photoelectric tube devices, which control the closing of automatic doors, shall comply with section 3003.8 through 3003.8.5. CBC. (F)
107. The operation of elevator(s) under fire or other emergency condition shall comply with sections 3003.9 through 3003.9.6 and 3003.9.10. CBC. (F)
108. Combustible rubbish kept or accumulated within or adjacent to a building shall be stored in approved containers or in rooms or vaults constructed of noncombustible materials. Section 1001.3, California Fire Code (CFC). (F)
109. Dumpsters and containers of rubbish with an individual capacity of 1.5 cubic yards (40.5 cubic feet) or more shall not be stored or placed within 5 feet of combustible walls, openings or combustible roof eaves unless protected by an approved sprinkler system. Section 1103.2.2, CFC. (F)
110. Complete plans and specifications for all aspects of Fire-Protection systems shall be submitted to the Fire Department for review and approval prior to system installation. Section 1001.3, CFC(F)

(P) – Planning Division

(H) – Housing Division

(E) – Engineering Division

(F) – Fire Department



2.

March 15, 2006

Dennis Carrington
Senior Planner
City of Milpitas
455 E. Calaveras Boulevard
Milpitas, Ca 95035

RE: Proposed Elevation and Unit Modifications to the Mid-Town (now referred to as Centria) approved Community

Dear Mr. Carrington,

As we previously discussed, D.R. Horton Inc. (through its subsidiary, Western Pacific Housing, Inc.) purchased the Centria project (formerly known as Mid-Town) from Fairfield Residential in November of last year. I have attached a title report that reflects this change in ownership.

Because the community will now be a for-sale condominium community, we would like to take this opportunity to propose enhancements to the elevations of both buildings as well as modifications to the unit size and unit mix. It is important to note that we are not proposing to change the landscaping plan or the footprints of the buildings. Also, within this application package is our submittal for a temporary sales trailer to be located at the southwest corner of the property. We anticipate using the sales trailer until we are able to move into the first (East) building.

More specifically:

Location: The site is bordered by Great Mall Parkway to the north, Abel Street to the west, Main Street to the east and vacated West Capital Avenue to the south.

Area: 8.19 acres.

Current Zoning: The site is located within the City of Milpitas Mid Town Specific Plan; Zoning is R-4 with a Transit Overlay Development.

Flood Zone: The site is currently located within flood zone AO; this development proposes to raise the site elevation out of this designated zone. The project, since its approval date, has received its determination by FEMA for the CLOMR-F. Both structures will be removed from the Special Flood Hazard

Area as a result of the proposed site grading and pad elevations. A final determination will be made upon the as-built survey.

Current Use: The site is currently vacant.

Approved Use: In August of 2005, the City Council approved a Vesting Major Tentative Tract Map (MA2005-4), Architecture Review (SZ2004-9) and Use Permit No. UP2005-3 PJ #3178. More specifically, the Council approved a request to subdivide a parcel into two separate parcels and construct two buildings containing a total of 481 units (162 in the East building and 319 in the West building) and a request for exceptions to the R4-TOD development standards for set-backs, open space and number of floors.

It should be note that the grading permit for the project was received on February 13, 2006.

Proposed Use: Our proposal consists of enhancing the elevations of both buildings and changing the unit sizes and mix to better serve the for-sale market place. Per the original building, 70% of the units were one bedroom, 28% of the units were two bedrooms and 2% of the units were three bedrooms. By adding a floor to the West building and West garage, we were able to provide a more tradition family oriented mix consisting of 32% one bedrooms, 55% two bedrooms and 13% three bedrooms.

Overall, the community will consist of approximately 464 residential condominium units. The East and West buildings will consist of 137 and 327 units, respectively. The units will range in size from 686 square foot one bedroom units to 1,340 square foot three bedroom units.

Another positive result the change is that we were able to also improve the parking ratio for the project (please see parking section below).

Also, as part of this package, we have included our request for locating a temporary sales trailer at the southwest corner of the property. The trailer complex will be 48' x 60' and will house the sale office as well as a model of one of the one bedroom units. It is anticipated that we will have one to two sales personnel on-site at any given time. Hours of operation are proposed to be from 10:00 am to 6:00 pm Monday through Sunday.

Upon completion of the East building, the sales office would relocate inside that building and would remain there through the completion of the West building.

Consistency with
Midtown

Specific Plan: Consistent with the approved project.

Site Plan: Consistent with the approved project.

Building Type: The proposed buildings shall consist of:

- West complex to be a 5 story Type III building
- East complex to be a 4 story Type V building

Architecture: This high density project was designed to emphasize pedestrian circulation throughout the site, as well as provide connectivity to surrounding transit and retail uses. Based on the change from apartments to condominiums, the goals remain the same as the buildings continue to be oriented to address streets, green space and pedestrian circulation. The eastern half of the project remains a four story "stacked-flat" home product while the western half of the project has been increased one floor to create a five story "stacked-flat" home product. This additional floor was necessary to provide the size and livability standards of the new preferred condominium product type. In addition, the number of one bedroom units originally provided for were substituted with larger two and three bedroom units. Where the original design of the buildings included a variety of architectural elements and enhanced articulation, the current design takes the building exteriors to the next level by additional articulation with the inclusion of full balconies on the new two and three bedroom units, and color variations on the building facades to further refine the building massing into smaller scale groups. The generous building breaks along South Abel and Main Street will remain urban plazas. Stoops at the first level along the major streets will promote pedestrian circulation with links to the plazas, trails and transit station. The plan continues to allow a generous set-back off of the creek to allow for a linear bike and walking trail, which is consistent with the Milpitas Trails Master for Penitencia. As per the original design, the majority of parking will be accommodated within two separate parking structures. The quantity of stalls per unit has increased while the structures remain surrounded by the residential buildings to assure that parking does not dominate any views from adjacent streets or pedestrian routes. The landscaping remains essentially the same, as do the project amenities. Ultimately, the site plan is consistent with the original project but the goals of the Midtown Specific Plan and the Transit Development Overlay District as well.

Proposed Amenities: Consistent with the approved project:

- Pool area including; pool, spa, sundeck, built-in BBQs, and trellis shade structures.
- Community room with full kitchen for resident functions and gatherings.
- Fully equipped fitness center.
- Generous landscape treatment throughout the development.
- Community trail/linear park along the property's southern boundary.

Landscape Plan: Consistent with the approved project.

Tentative Map: Consistent with the approved project. A Final Map has been submitted to the City for review and comment.

Proposed Building Setbacks: Consistent with approved project.

Parking: Parking for this development remains consistent with current R-4 zoning standards and shall be accommodated as follows:

Consistent with the approved project, one "on-grade" parking structure will be constructed for each residential community. These garage structures shall be surrounded by residential buildings and shall be similar in height for the East building and extend one story higher than the West building.

Overall, with the minor reduction in units and the addition of an additional parking level for the West garage, the proposed project exceeds the City's parking requirement by providing over 80 additional parking spaces. More specifically:

PARKING			Code	Provided
Total 1 bdrm units	150	Times 1.5*	225	-
Total 2 & 3 bdrm units	314	Time 2.0*	628	-
Total Units	464	Subtotal Spaces	853	865
		Less 20% Reduction	-171	0
		Space with Reduction	682	865**
		15% Guest Spaces	102	130
Total Parking			784	865
* Parking Code is: 1.5 parking per 1 bdrm unit; 2 per 2 & 3 bdrm unit				
** approved project provided 748 spaces				

Surface guest parking has been located along the southern portion of the site to accommodate guests.

Affordable Housing: Consistent with the original approval, Centria is proposing to provide 5% of the total units to be available at the very low affordability level, 1% of the total units at the low affordability level and 15% of the total units at the moderate affordable level.

More specifically the project proposes the following:

Income Level	No. of Units	Unit Type
Very Low	23	No. of 1 & 2 bedroom units (TBD)
Low	5	No. of 3 bedroom units
Moderate	70	No. of 1, 2 and 3 bedroom units (TBD)

Phasing: Per Condition No. 37 of the approved project the project is required to:

Prior to occupancy of the first phase of the project, building permits shall be procured and construction begun (building slab be installed) on the second phase.

Based on the changes to the project (apartment vs. for-sale and the addition of a floor to the West building and garage) and our current sales and construction schedules, we do not believe that even with ideal timing and building conditions the above condition is obtainable.

Our goal is to complete the changes to the East building (the smaller building) first. Construction of the garage is hoped for in late April to early May 2006. Construction of the residential building is anticipated to occur sometime in September of 2006. Completion of the building and the need to occupy the building is anticipated to occur in August 2007 (it is anticipated that the building will be sold out prior to its completion meaning that occupancies would occur immediately after the building is completed).

With that said, due to the changes being proposed to the West building and garage, it is not anticipated that the garage would be approved for construction until October 2006. With a construction time of 11 months, the garage we would not be completed until November 2007, meaning that the start of construction for the West building would no occur until December 2007, four months after the completion and the need to occupy the East building.

In addition to the timing issue, it is estimated that by the time the first building is ready to be occupied D.R. Horton will have invested over

\$70,000,000 by closing on the entire property, grading the entire site (which includes bringing in over 40,000 cubic yards of soil), completing the on-and off-site improvements for the entire site and completing the building plans and garage plans for the both buildings.

Because of this type of commitment and the inability to make the timing work, we would ask the Commission to provide some flexibility in the condition. More specifically, we would request that the condition be modified to read as follows:

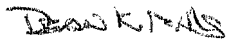
Prior to occupancy of the first phase of the project, building permits shall be procured and construction begun on the second phase.

We are very excited about the opportunity to develop a new high density transit oriented for-sale community with the City of Milpitas. We believe that the proposed elevation and unit changes are not only consistent with the intent of the Mid-Town Specific Plan and the projects original approvals, but are also an enhancement to what the previous applicant had proposed. We believe are proposed changes also will help allow for additional homeownership opportunities to families in Milpitas.

If you have any questions or need any additional information please do not hesitate to contact me at 925.226.2741 or via e-mail at dkmills@drhorton.com.

Thank you.

Sincerely,



Dean K. Mills
Project Manager
D.R. Horton

Attachments

CENTRIA MILPITAS

Concept Design

Cover Sheet	
1	Summary Sheet
2	Site Plan
3	First Floor Plans
4	Second Floor Plans
5	Third Floor Plans
6	Fourth Floor Plans
7	Fifth Floor Plan
8	Typical Unit Plans
9	North Elevation (West Building)
10	West Elevation (West Building)
11	South Elevation (West Building)
12	North Elevation (East Building)
13	East Elevation (East Building)
14	South Elevation (East Building)
15	Temporary Sales Complex

Centria - Concept Design

Milpitas, CA

D.R. HORTON



444 S Flower Street - Suite 1220
Los Angeles, California 90071
213.614.8050
213.614.8051 fax
www.tsmrinc.com

March 13, 2006

UNIT MIX

EXISTING UNIT TYPES AND MIX

UNIT TYPE	1	2	3	1 Bedroom					1+den					1+lg+dd					2 Bedroom					3 Bedroom	Total Units/Fir.
	Bed Rm	Bed Rm	Bed Rm	A1	A2	A3	A3B	A4	A5	A5B	A6	B1	B2	B3	B4	B5			B1	B2	B3	B4	B5	C1	
				686	731	793	915	819	804	860	978	1016	1062	1089	1221	1219			1016	1062	1089	1221	1219	1434	
WEST BUILDING																									
4th Floor	54	26	1	23	18	4		5			4	4	6	6	10									1	81
3rd Floor	54	26	1	23	18	4		5			4	4	6	6	10									1	81
2nd Floor	53	26	1	23	18	4		5			3	4	6	6	10									1	80
1st Floor	52	21	1	23	17	4		5			3	4	6	5	6									1	74
	213	99	4	92	71	16	0	20	0	0	14	16	24	23	36	0	0	4						4	316
EAST BUILDING																									
4th Floor	31	10	2	15	8	2	1	2	1	1	1	1	4	1	3	1								2	43
3rd Floor	31	10	2	15	8	2	1	2	1	1	1	1	4	1	3	1								2	43
2nd Floor	30	10	2	15	8	2	1	2	1	1	1	1	4	1	3	1								2	42
1st Floor	29	7	1	14	10		1	2	1	1	1	1	3	1	1	1								1	37
	121	37	7	59	34	6	4	8	4	2	4	4	15	4	10	4								7	165
Qty. Unit Type	334	136	11	151	105	22	4	28	4	2	18	20	39	27	46	4								11	481
% Unit Mix	69.4%	28.3%	2.3%																						
SF per Unit Type	246915	152183	15774	103596	76755	17446	3660	22932	3216	1720	17604	20320	41418	29403	56166	4876								15774	414876
Avg. SF per Unit	739	1119	1434																						

PROPOSED UNIT TYPES AND MIX

UNIT TYPE	1	2	3	1 Bedroom					1+den					1+lg+dd					2 Bedroom					3 Bedroom	Total Units/Fir.
	Bed Rm	Bed Rm	Bed Rm	A1	A2	A3	A3B	A4	A5	A5B	A6	B1	B2	B3	B4	B5	BX		B1	B2	B3	B4	B5	C1	CX
				686	731	793	915	819	804	860	978	1016	1062	1089	1221	1219	1043		1016	1062	1089	1221	1219	1434	1340
WEST BUILDING																									
5th Floor	21	38	8	3	7	4		3			4	4	5	6	9								14	1	7
4th Floor	21	38	8	3	7	4		3			4	4	5	6	9								14	1	7
3rd Floor	21	38	8	3	7	4		3			4	4	5	6	9								14	1	7
2nd Floor	20	38	8	3	7	4		3			3	4	5	6	9								14	1	7
1st Floor	19	34	6	3	5	4		3			3	4	5	5	6								14	1	7
	101	186	40	15	33	20	0	15	0	0	18	20	25	29	42	0	70							5	35
EAST BUILDING																									
4th Floor	13	18	5	2	3	2	1	2	1	1	1	1	4	1	3	1	8							2	3
3rd Floor	13	18	5	2	3	2	1	2	1	1	1	1	4	1	3	1	8							2	3
2nd Floor	12	18	5	2	3	2	1	2	1	1	1	1	4	1	3	1	8							2	3
1st Floor	11	15	4	1	5		1	2	1	1	1	1	3	1	1	1	8							1	3
	49	69	19	7	14	6	4	8	4	2	4	4	15	4	10	4	32							7	12
Qty. Unit Type	150	255	59	22	47	26	4	23	4	2	22	24	40	33	52	4	102							12	47
% Unit Mix	32.3%	55.0%	12.7%																						
SF per Unit Type	1*9016	277555	80188	15092	34357	20618	3690	18837	3216	1720	21516	24384	42480	35937	63492	4876	106386							17208	62980
Avg. SF per Unit	793	1088	1359																						

PARKING CALC

PARKING		Code	Provided
Total 1 bedroom units	150	Times 1.5*	225
Total 2 & 3 bedroom units	314	Times 2.0*	628
	464	Sub Total Spaces	853
		Less 20% Reduction	-171
		Spaces with Reduction	682
		15% Guest Spaces	102
Total Parking			784
* Parking per Code is:			
1.5 parking spaces per 1 bedroom unit; 2 per 2 & 3 bedroom unit			
** Approved project provided 748 spaces			

Summary

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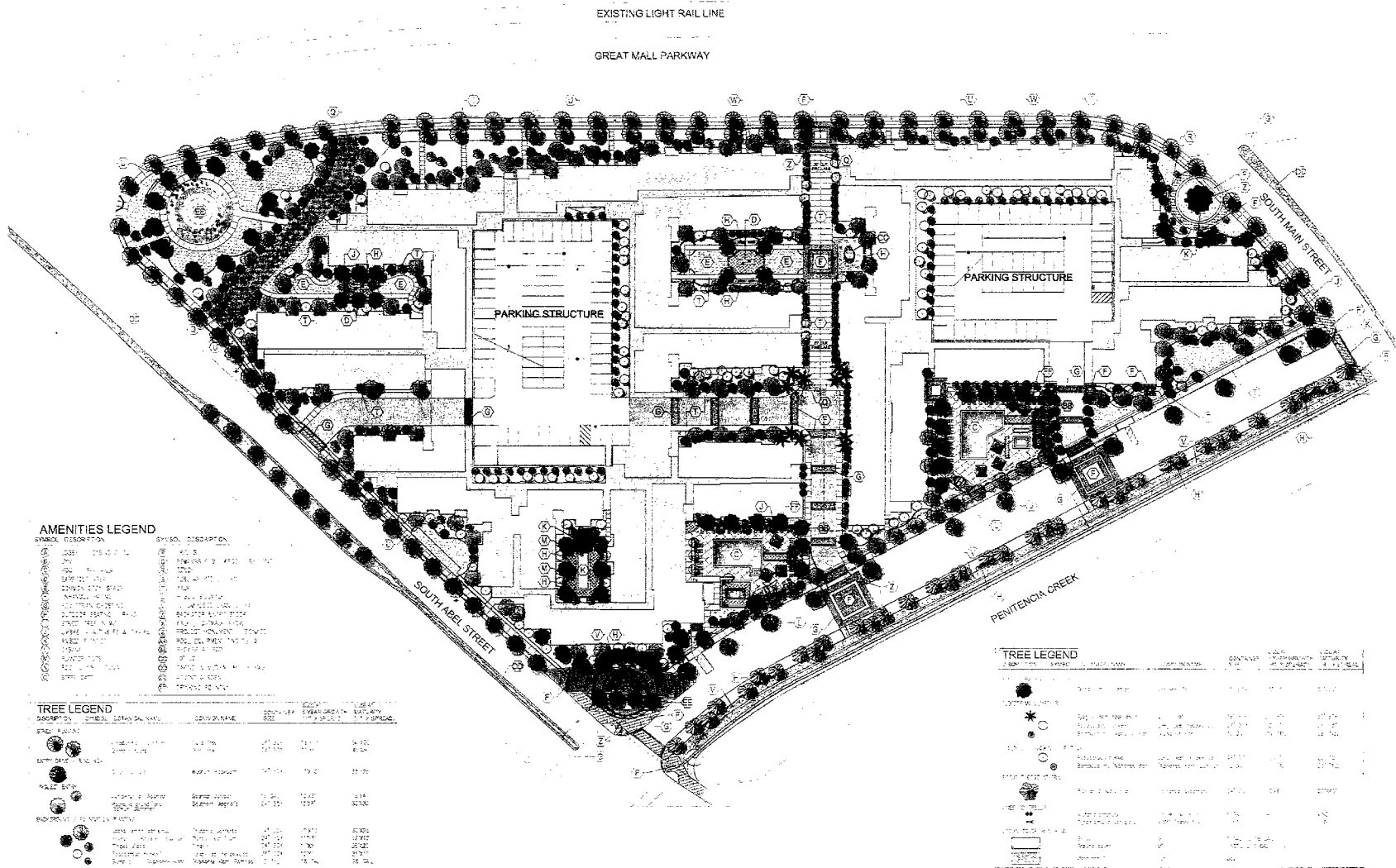
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ILLUSTRATIVE SITE PLAN

Apr. 20, 2005

ima design

1" = 100'



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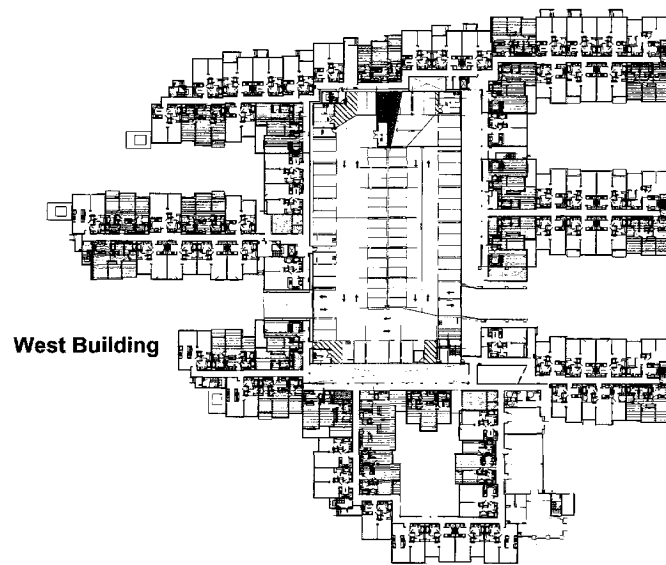
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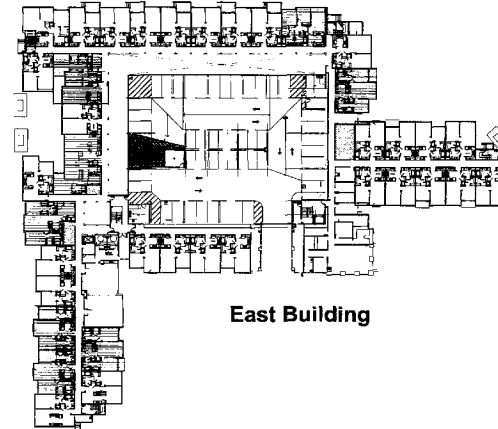
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



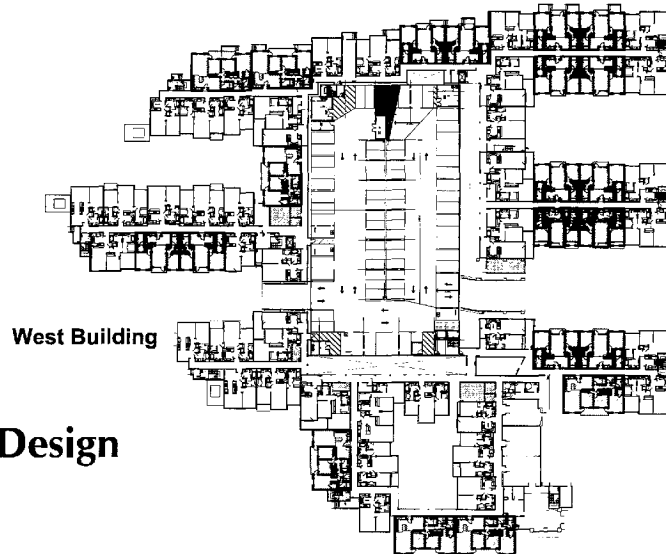
West Building



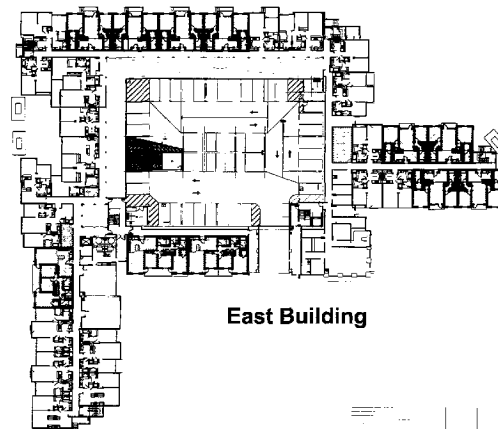
East Building

Original 1st Floor Plan

-  Existing 2 Bedroom Unit
-  Existing 3 Bedroom Unit





West Building



East Building

Current 1st Floor Plan

-  New 2 Bedroom Unit
-  New 3 Bedroom Unit

1st Floor Plans Centria - Concept Design

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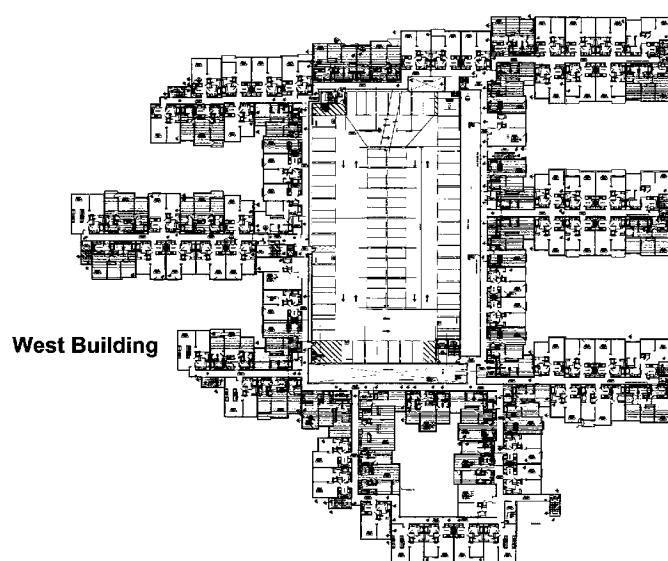
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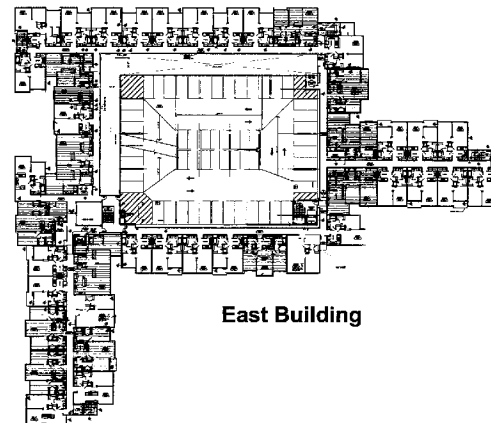
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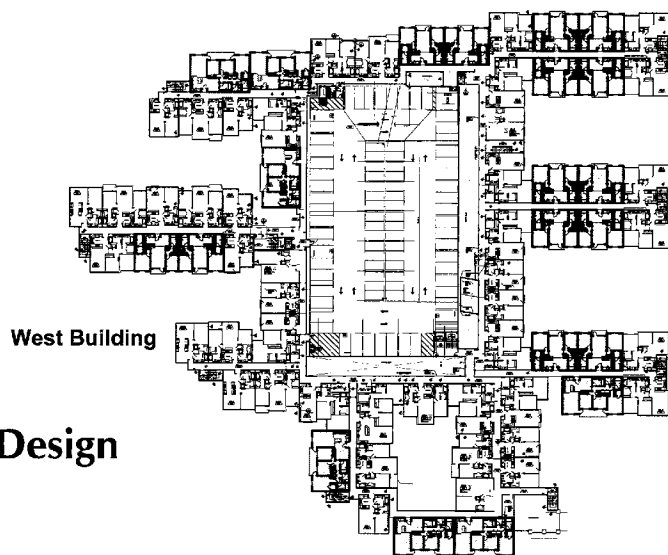
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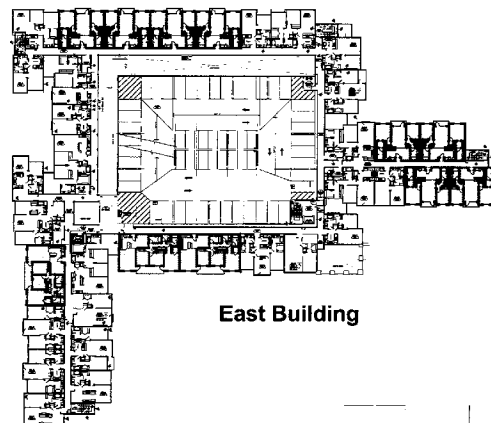
East Building

Original 2nd Floor Plan

-  Existing 2 Bedroom Unit
-  Existing 3 Bedroom Unit





West Building



East Building

Current 2nd Floor Plan

-  New 2 Bedroom Unit
-  New 3 Bedroom Unit

2nd Floor Plans Centria - Concept Design

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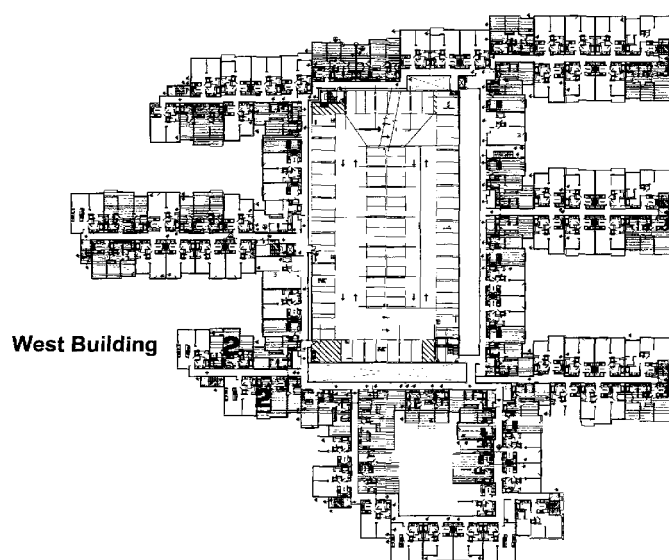
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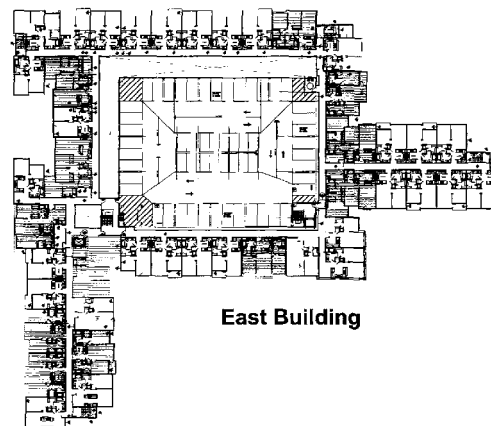


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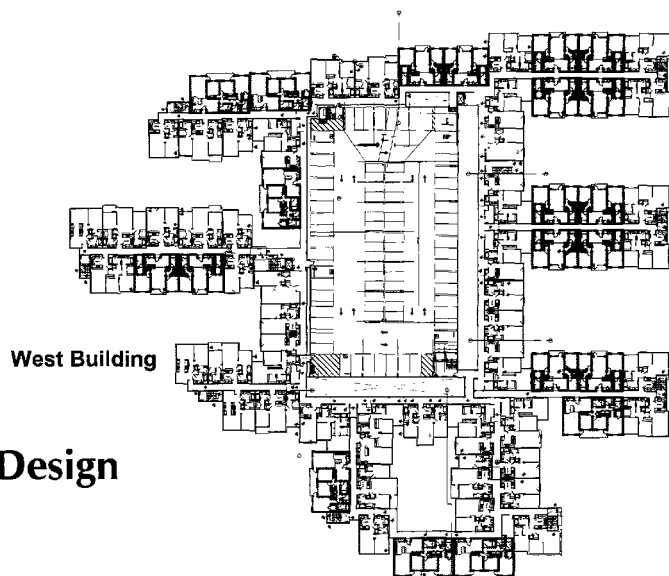
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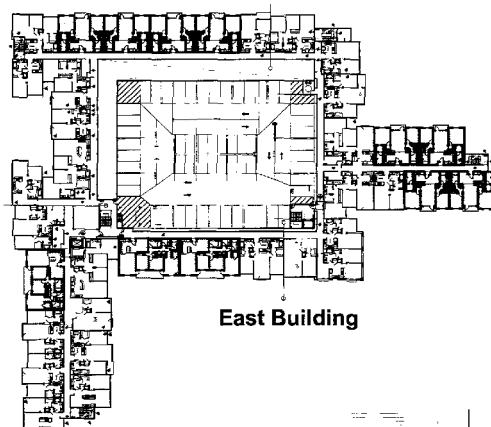
East Building

Original 3rd Floor Plan

-  Existing 2 Bedroom Unit
-  Existing 3 Bedroom Unit





West Building



East Building

Current 3rd Floor Plan

-  New 2 Bedroom Unit
-  New 3 Bedroom Unit

3rd Floor Plans Centria - Concept Design

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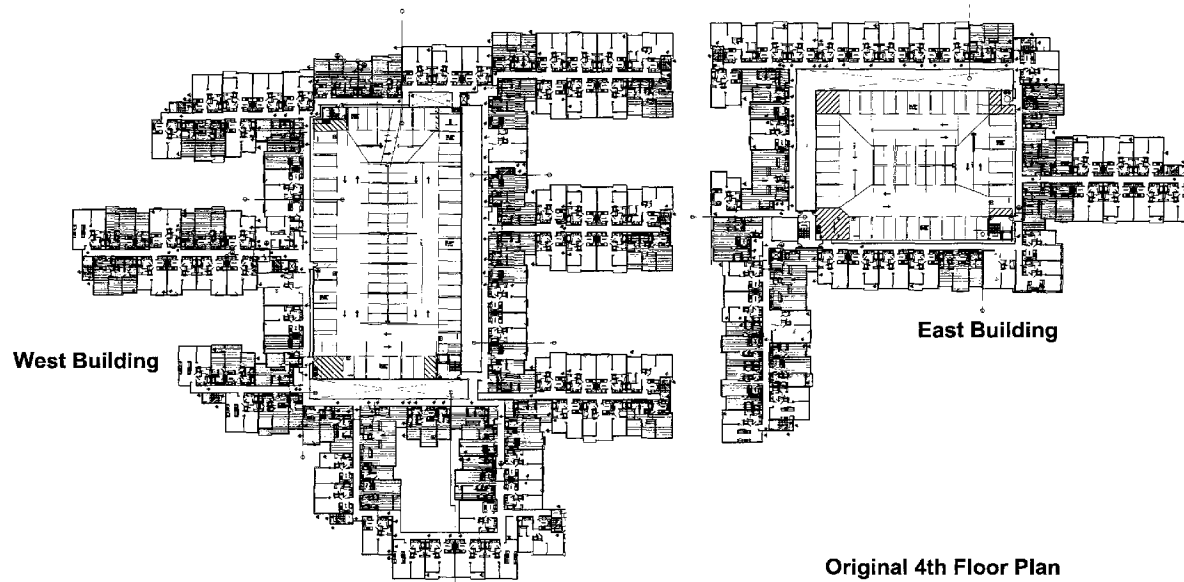
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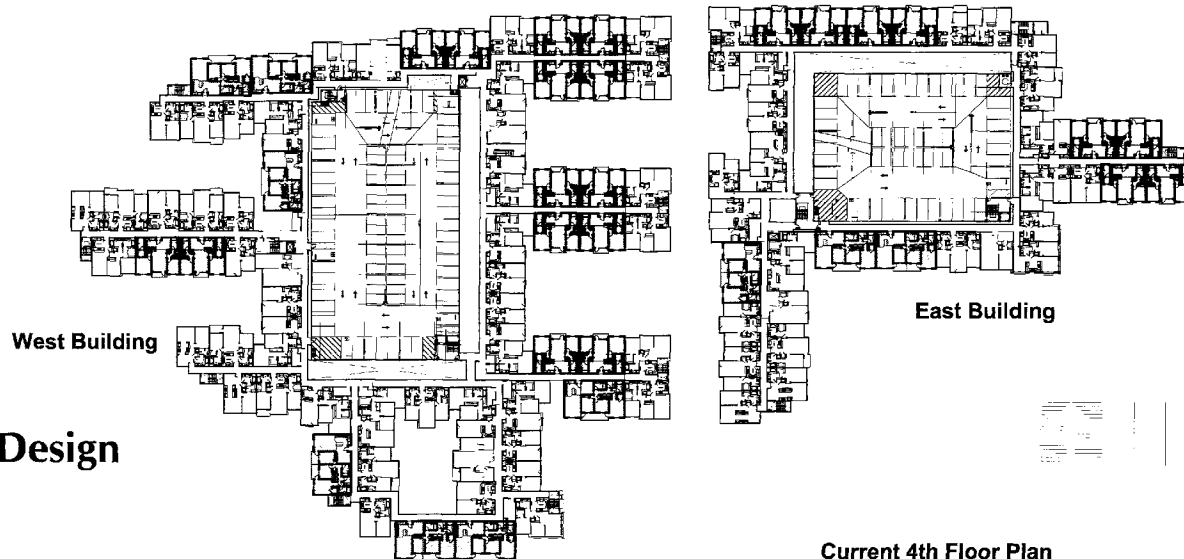


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Original 4th Floor Plan



Current 4th Floor Plan

4th Floor Plans

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New 2 Bedroom Unit

New 3 Bedroom Unit

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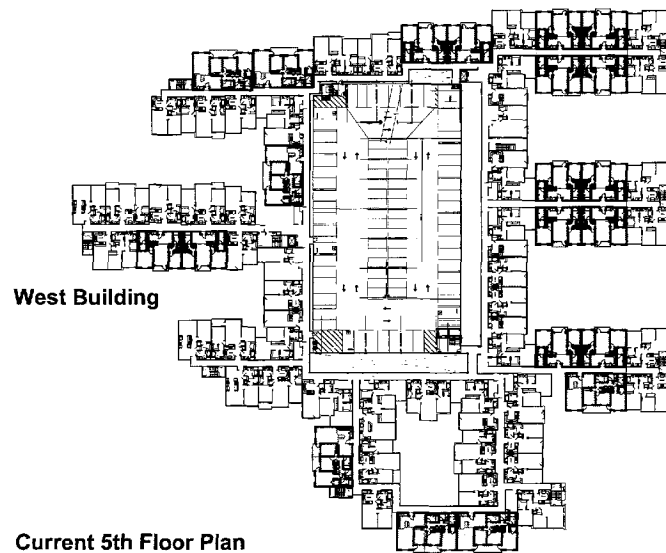
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Current 5th Floor Plan

- New 2 Bedroom Unit
- New 3 Bedroom Unit

5th Floor Plan Centria - Concept Design

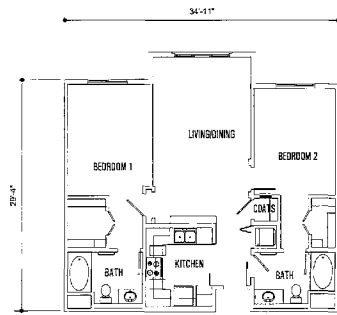
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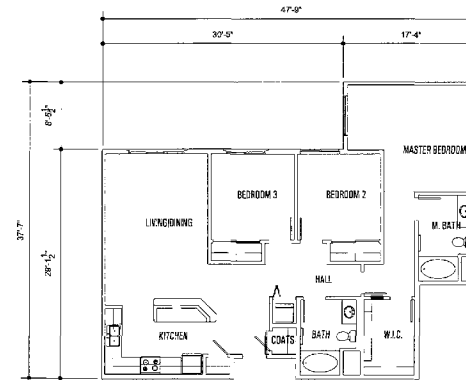
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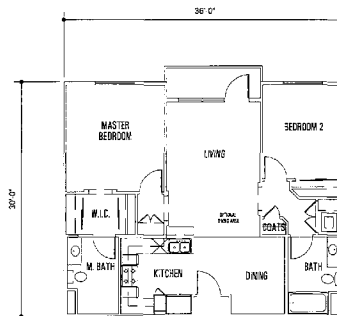
Original 2 Bedroom

1,055 sf



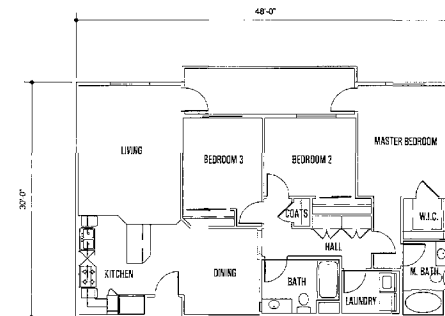
Original 3 Bedroom

1,419 sf



Current 2 Bedroom

1,043 sf



Current 3 Bedroom

1,340 sf

Typical Unit Plans

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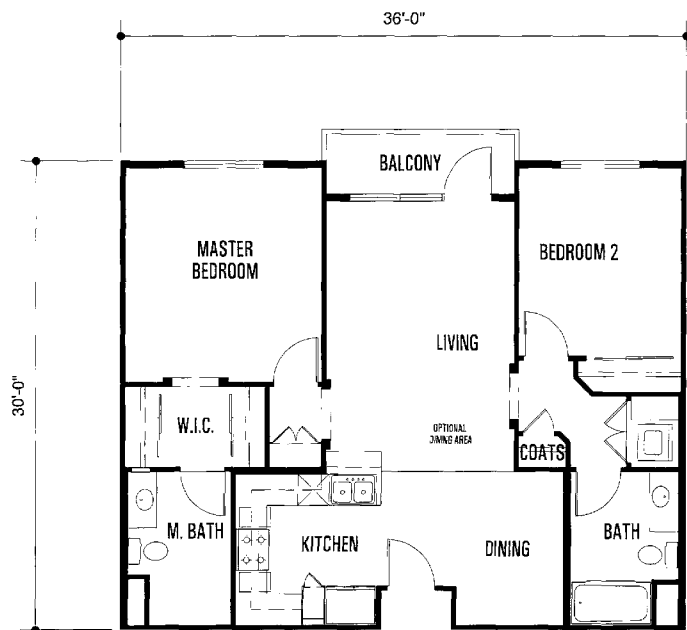
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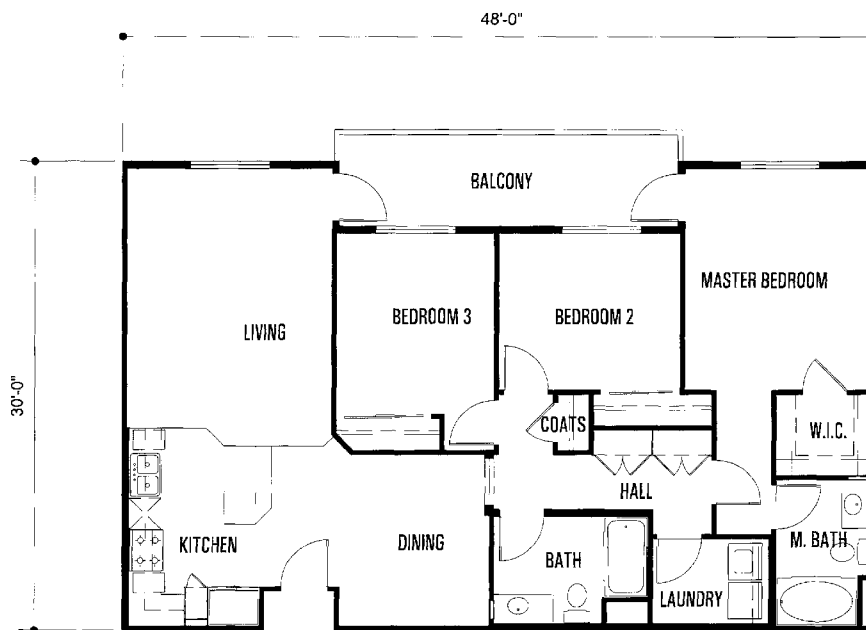
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2 Bedroom

1,043 sf



3 Bedroom

1,340 sf

New Unit Plans

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Original North (Great Mall Parkway)



Current North (Great Mall Parkway)

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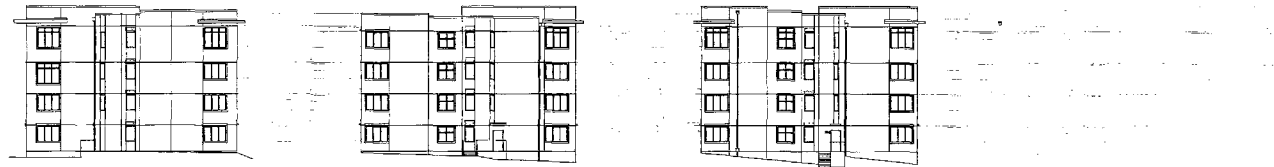


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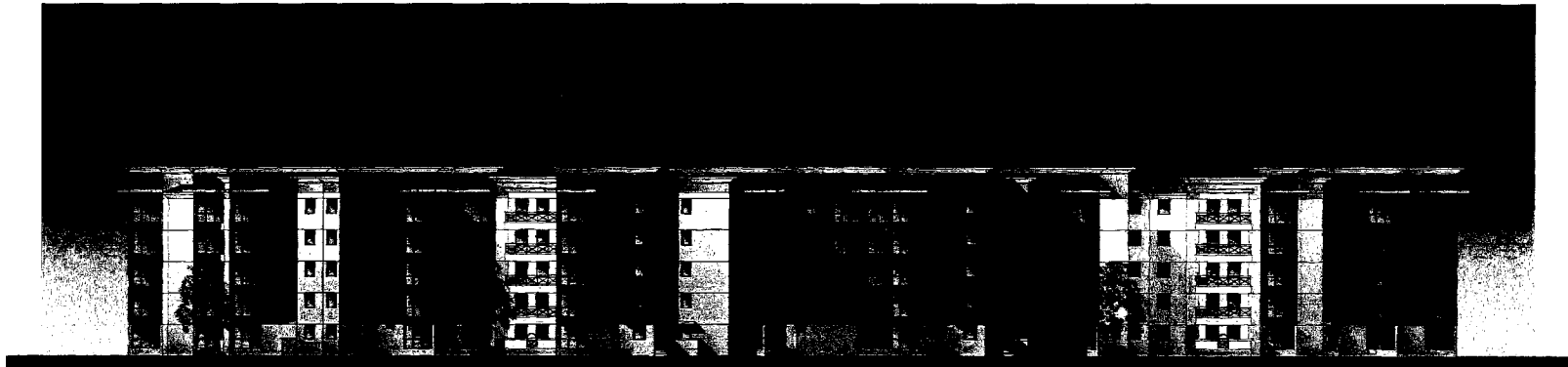
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Original West



Current West

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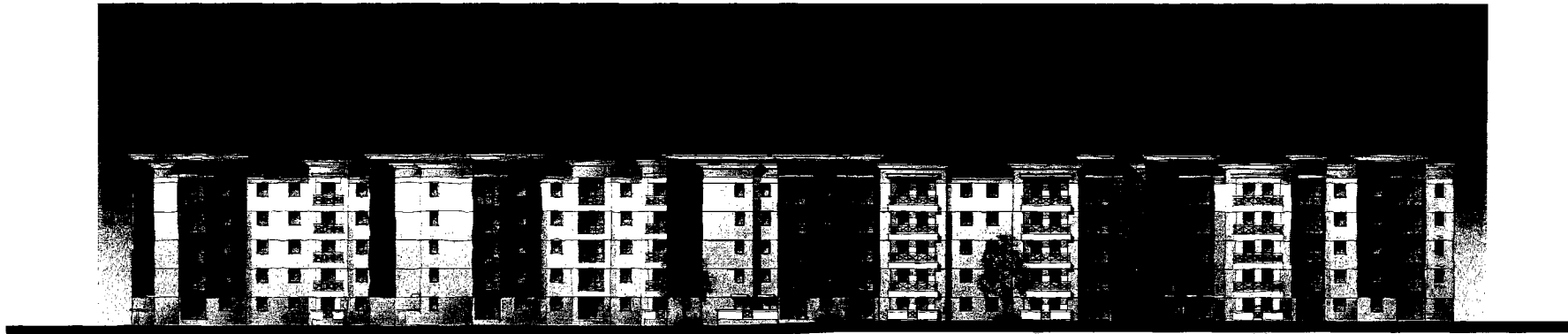


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Original South



Current South

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Original North (Great Mall Parkway)



Current North (Great Mall Parkway)

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Original East



Current East

East Site Elevations
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Original South

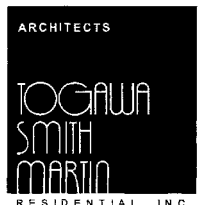


Current South

East Site Elevations Centria - Concept Design

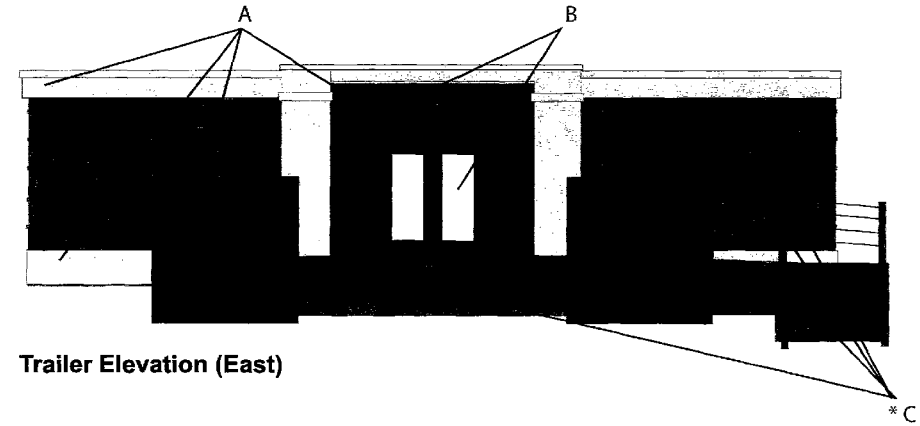
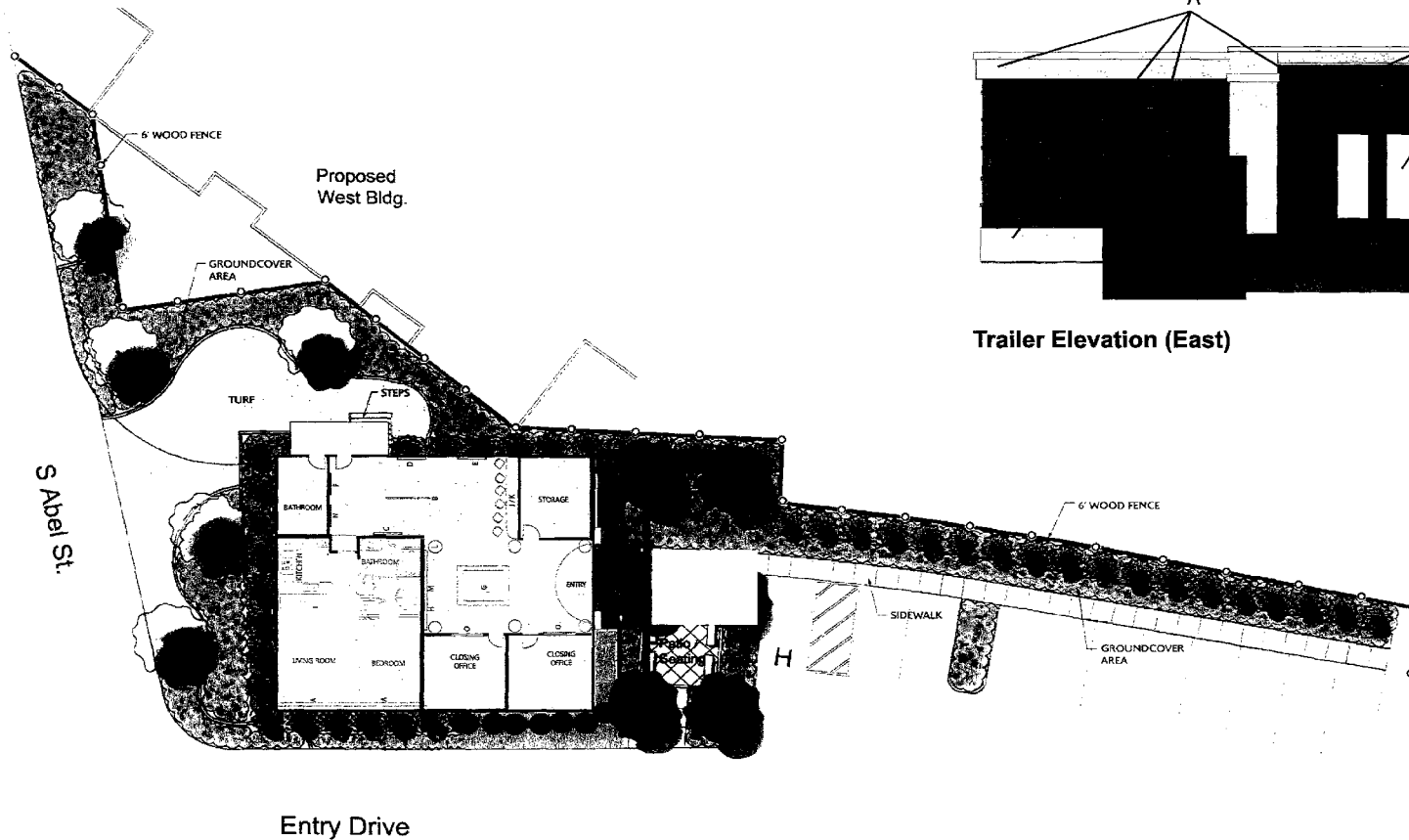
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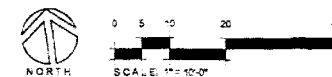
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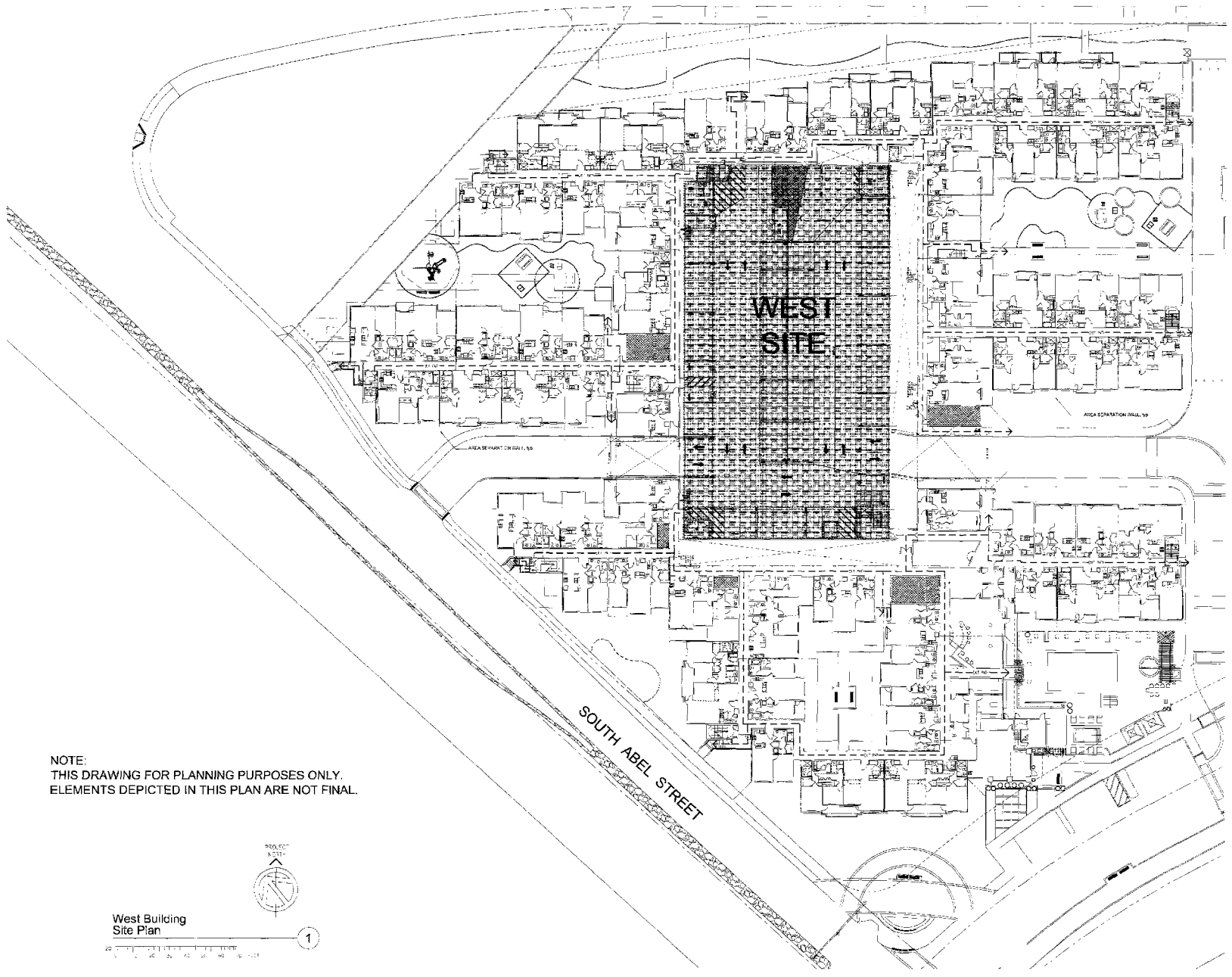
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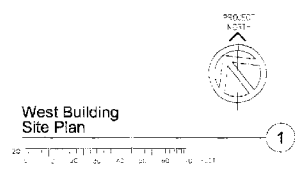
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Centria Milpitas - East

West Building Site Plan

Project Number: 1000000000
Scale: 1/8" = 1'-0"
Date: 10/1/2010
Sheet No: 1

Project Number: 1000000000
Scale: 1/8" = 1'-0"
Date: 10/1/2010
Sheet No: 1